Australian Capital Territory

Magistrates Court Act 1930

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Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Magistrates Court Act 1930* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 22 December 2005. It also includes any amendment, repeal or expiry affecting the republished law to 22 December 2005.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

(a) if the person charged is an individual—$100; or

(b) if the person charged is a corporation—$500.

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Australian Capital Territory

Magistrates Court Act 1930

An Act to establish a Magistrates Court, to provide for the appointment of magistrates, and for other purposes

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Chapter 1 Preliminary

1 Name of Act

This Act is the *Magistrates Court Act 1930*.

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (***signpost definitions***) to other terms defined elsewhere.

For example, the signpost definition '***vehicle***, for part 3.8 (Infringement notices for certain offences)—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.' means that the term 'vehicle' is defined in that dictionary and the definition applies to part 3.8.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

3 Notes

(1) A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

(2) In this section:

note includes material enclosed in brackets in section headings.

Note For comparison, a number of sections of this Act contain bracketed notes (eg MC (CJ) Act, s 4) in their headings drawing attention to equivalent or comparable (though not necessarily identical provisions of the *Magistrates Court (Civil Jurisdiction) Act 1982* (repealed).

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(3) Subsection (2), this subsection, and the material enclosed in brackets in section headings, expire 1 year after the day this section commences.

3A Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The Criminal Code, ch 2 applies to the following offence against this Act (see Code, pt 2.1):

- s 290 (1) (Contempt in face of court)

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg ***conduct***, ***intention***, ***recklessness*** and ***strict liability***).

Note 2 *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

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Chapter 2 Magistrates Court and magistrates

Part 2.1 The court

4 Constitution of court

(1) The Magistrates Court is continued in existence.

(2) The jurisdiction of the court may be exercised by a magistrate (other than a special magistrate) or by 1 or more special magistrates.

(3) If 2 or more special magistrates are divided in opinion on a case, the case must be—

(a) if there is a majority—decided according to the decision of the majority; or

(b) if the court is equally divided in opinion—adjourned for hearing and decision by a magistrate (other than a special magistrate).

5 Arrangement of court business

(1) The Chief Magistrate is responsible for ensuring the orderly and prompt discharge of the Magistrates Court's business.

(2) The Chief Magistrate may, subject to consultation with the magistrates that is appropriate and practicable, make arrangements about a magistrate who is to constitute the court in particular matters or classes of matters.

(3) In this section:

magistrate includes special magistrate.

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Part 2.2 Appointment and jurisdiction of magistrates

Division 2.2.1 Magistrates other than special magistrates

6 Meaning of *magistrate* in div 2.2.1

In this division:

magistrate means—

(a) the Chief Magistrate; or

(b) a person who is appointed under section 7 as a magistrate.

7 Appointment of Chief Magistrate and other magistrates

(1) There is to be a Chief Magistrate and other magistrates.

(2) The Chief Magistrate and other magistrates are appointed by the Executive.

Note For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

(3) If a magistrate is appointed as the Chief Magistrate, the person stops holding the position of magistrate.

7A Eligibility for appointment as magistrate

A person is not eligible for appointment as a magistrate unless the person is a lawyer and has been a lawyer for at least 5 years.

7B Seniority of magistrates

Magistrates other than the Chief Magistrate have seniority according to—

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(a) the dates their appointments took effect; or

(b) if the appointments of 2 or more of them took effect on the same date—the precedence given to them by the instruments of their appointment.

7C Conditions of appointment of magistrates

A magistrate holds the position on the conditions (if any) about matters not provided for under this Act or another territory law that are decided by the Executive.

7D Term of appointment of magistrates

(1) A magistrate is appointed for the term ending when the magistrate turns 65 years old.

Note 1 The *Judicial Commissions Act 1994*, s 4 provides that a magistrate may only be removed from office in accordance with that Act.

Note 2 A magistrate's appointment also ends if the magistrate resigns (see Legislation Act, s 210).

(2) A person who is at least 65 years old must not be appointed as a magistrate.

7E Acting Chief Magistrate

(1) The Executive may appoint a magistrate to act as Chief Magistrate.

Note See the Legislation Act, s 209, div 19.3.2 and div 19.3.2A about acting appointments.

(2) If no appointment is made under subsection (1), the senior magistrate who is in the ACT and is able and willing to act must act as Chief Magistrate.

7F Retirement

(1) This section applies if a magistrate is—

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(a) an eligible employee for the *Superannuation Act 1976* (Cwlth); or

(b) a member of the superannuation scheme for the *Superannuation Act 1990* (Cwlth).

(2) The Executive may retire the magistrate on the ground of invalidity with the magistrate's consent.

7G Magistrates not to do other work

(1) A magistrate must not practise as a lawyer.

(2) A magistrate must not, without the Attorney-General's written consent—

(a) engage in remunerative employment otherwise than in connection with duties as a magistrate; or

(b) accept appointment to another position under a law of the Territory, the Commonwealth, a State or another Territory.

(3) The Attorney-General must consult with the Chief Magistrate before giving consent.

7H Rights of public servants

(1) A magistrate who was a public servant or APS employee immediately before his or her appointment keeps his or her existing and accruing rights.

(2) In this section:

APS employee—see the *Public Service Act 1999* (Cwlth), section 7.

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Division 2.2.2 Special magistrates

8 Appointment of special magistrates

The Executive may appoint special magistrates.

Note For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

8A Term of appointment of special magistrates

(1) A special magistrate is appointed—

(a) for the term mentioned in the instrument of appointment; or

(b) if a term is not mentioned—for the term ending when the special magistrate turns 70 years old.

Note 1 The *Judicial Commissions Act 1994*, s 4 provides that a magistrate may only be removed from office in accordance with that Act.

Note 2 A special magistrate's appointment also ends if the special magistrate resigns (see Legislation Act, s 210).

(2) A person who is at least 70 years old must not be appointed as a special magistrate.

(3) A person must not be appointed as a special magistrate for a term that extends beyond the person's 70th birthday.

8B Conditions of appointment of special magistrates

A special magistrate holds the position on the conditions (if any) about matters not provided for under this Act or another territory law that are decided by the Executive.

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Division 2.2.3 Registrar and other court officers

9 Appointment of registrar etc

(1) The Minister may appoint a registrar of the Magistrates Court.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

(2) The registrar may appoint the deputy registrars of the court, bailiffs and other officers that are required.

(3) In subsection (2):

registrar does not include a deputy registrar.

9A Staff assisting registrar

The staff assisting the registrar are to be employed under the *Public Sector Management Act 1994*.

9B Registrar's functions

The registrar must exercise the functions that are given to the registrar under this Act or another territory law or that the Chief Magistrate directs.

Division 2.2.4 Jurisdiction of magistrates

10P Oath etc of office

(1) A person appointed as the Chief Magistrate, a magistrate or special magistrate must not exercise the functions given to a magistrate under any territory law unless the person has sworn an oath or made an affirmation in accordance with the form in schedule 1.

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(2) The oath must be sworn or affirmation made before the Chief Justice.

11 Acts done beyond ACT

(1) An act done by a magistrate, because of his or her office, outside the ACT for the purpose of authenticating the signature of a person to an instrument intended to take effect in the ACT is, unless the act is required by law to be done in the ACT, effective for any territory law.

(2) An oath or affirmation administered by a magistrate, because of his or her office, outside the ACT in any case in which an oath or affirmation may be administered by a magistrate is, unless the oath or affirmation is required by law to be administered in the ACT, effective for any territory law.

12 Acts by magistrate out of court etc

(1) Any magistrate out of court or the registrar may do all or any of the following:

(a) receive an information;

(b) issue a summons or warrant on an information;

(c) issue a summons or warrant to compel the attendance of a witness;

(d) do anything else that is necessary and preliminary to a hearing.

(2) Without limiting subsection (1), if a law in force in the ACT provides that an information or complaint may be laid or made before, or a summons or warrant issued by, a court or justice of the peace, the information or complaint may be laid or made, and the summons or warrant may be issued, by a magistrate or the registrar.

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13 Issue of warrant of commitment etc after case decided

After a case has been heard and decided, any magistrate or the registrar may issue a warrant of commitment or writ of execution for the purposes of the case.

15 Process not invalid only because of death of magistrate etc

A summons, warrant or writ issued by a magistrate or registrar is not invalid only because of the magistrate or registrar dying or otherwise ceasing to hold the position.

16 Order instead of mandamus

(1) If a magistrate or registrar refuses to do any act relating to the duties of his or her office as a magistrate or registrar, the party requiring the act to be done may apply to the Supreme Court, on affidavit of the facts, for an order calling on the magistrate or registrar and also the party to be affected by the act to show cause why the act should not be done, and if, after due service of the order, good cause is not shown against it, the Supreme Court may make the order absolute, with or without payment of costs.

(2) A magistrate or registrar on being served with an order absolute must obey the order, and do the act required by it to be done.

17 Magistrates may exercise functions of justices of peace

If under any law in force in the ACT, anything is required or permitted to be done before, to or by a justice of the peace, it may be done before, to or by a magistrate.

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Part 2.3 Protection of magistrates in execution of their office

17A Magistrate sued for act not within jurisdiction

(1) Any person injured by an act done by a magistrate in a matter in which by law the magistrate has no jurisdiction or in which the magistrate has exceeded his or her jurisdiction, or by an act done under any conviction or order made or warrant or writ issued by a magistrate in any such matter, may maintain in the Supreme Court an action against the magistrate without alleging in his or her statement of claim that the act complained of was done maliciously and without reasonable and probable cause.

(2) No such action is maintainable for anything done under any such conviction or order until after the conviction or order has been quashed or set aside on appeal.

(3) No such action is maintainable for anything done under any such warrant that was issued by the magistrate to procure the appearance of the person charged, and that has been followed by a conviction or order in the same matter, until after the conviction or order has been so quashed or set aside.

(4) If the lastmentioned warrant has not been followed by a conviction or order, or if it is a warrant on an information of an alleged indictable offence, and if a summons was issued previously to the warrant being issued, and the summons was served on the person charged either personally or by leaving it for the person with someone at the person's last-known or usual home or business address, and the person did not appear according to the exigency of the summons, in that case no action is maintainable against the magistrate for anything done under the warrant.

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17B No action against magistrate after order nisi to quash conviction has been granted

If an order to show cause why a conviction or order should not be quashed has been granted, an action is not maintainable against the magistrate constituting the court by which the conviction or order in question was made in relation to any proceeding taken under, or matter arising out of, the conviction or order.

17C Warrant or writ by magistrate on order of court

If a conviction or order is made by the court and a warrant of commitment or writ of execution is granted on it by a magistrate bona fide and without collusion, an action in relation to any defect in the conviction or order or any want of jurisdiction in the court making the conviction or order is maintainable only against the magistrate constituting the court that made the conviction or order.

17D No action for acts done under Supreme Court order

An action is not maintainable against a magistrate for doing an act if the magistrate does the act in accordance with a Supreme Court order.

17E No action if proceeding confirmed on appeal

If a warrant of commitment or writ of execution is granted by a magistrate on a conviction or order that, either before or after the granting of the warrant or writ, is confirmed on appeal, an action is not maintainable against the magistrate who granted the warrant or writ for anything done under it because of any defect in the conviction or order.

17F Actions in cases prohibited

If any action, which by this Act is declared to be not maintainable, is brought against a magistrate, the Supreme Court, on application of

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the defendant, and on affidavit of the facts, may set aside or stay the proceeding with or without costs.

17G Payment into court

(1) After an action under this part has been started but before the case has been heard, a defendant may pay into court the amount the defendant considers appropriate.

(2) Judgment must be given for the defendant if the Supreme Court at the trial considers that the plaintiff is not entitled to damages beyond the amount paid into court, and the amount paid into court, or the part of it that is enough to meet the defendant's costs, must be paid out of court to the defendant, and the rest (if any) must be paid to the plaintiff.

(3) If the plaintiff accepts the amount paid into court in satisfaction of the plaintiff's damages in the action, the plaintiff may apply to the Supreme Court for an order for the payment of the amount out of court to the plaintiff, with or without costs.

(4) If the Supreme Court makes the order, the action is decided and the order is a bar to any other action for the same cause.

17H No action against magistrate for judicial acts in Magistrates Court

An action must not be brought in the Magistrates Court against a magistrate in relation to anything done by the magistrate in the execution of the magistrate's office.

17I Magistrate sued for acts within magistrate's jurisdiction only liable in case of malice and absence of reasonable and probable cause

In an action against a magistrate for any act done by the magistrate in the execution of the magistrate's duty as a magistrate in relation to any matter within the magistrate's jurisdiction as a magistrate, it

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must be expressly alleged in the statement of claim that the act was done maliciously and without reasonable and probable cause, and if the allegations are denied, and at the trial of the action the plaintiff fails to prove them, judgment must be given for the defendant.

17J Verdict for defendant

If the plaintiff in an action against a magistrate does not prove the cause of action at the trial, judgment must be given for the defendant.

17K Damages

If—

(a) the plaintiff in an action against a magistrate is entitled to recover, and seeks to recover a penalty or other amount paid or raised as a result of a conviction, judgment or order or to recover damages for imprisonment; and

(b) it is proved that the plaintiff was guilty of the offence or liable to pay the amount or, for imprisonment, did not undergo any greater punishment than could have been imposed for the offence of which the plaintiff was convicted;

the plaintiff is not entitled to recover the penalty or other amount paid or raised or, for imprisonment, damages greater than 1 cent, or any costs in the action.

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Chapter 3 Criminal proceedings

Part 3.1 Preliminary

18A Definitions for ch 3

In this chapter:

administrator means the remand centre administrator.

Crimes Act means the *Crimes Act 1900*.

decision includes a committal for trial, admission to bail, and a conviction, order or other decision.

defendant means a person against whom an information is laid.

escort means a custodial escort.

superintendent, for a remand centre, means the superintendent for the centre under the *Remand Centres Act 1976*.

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Part 3.2 Criminal jurisdiction

19 Jurisdiction of court

If, by any law in force in the ACT, any offence is punishable on summary conviction or any person is made liable to a penalty or punishment or to pay an amount for any offence, act or omission, and no other provision is made for the trial of the person committing the offence, the matter may be heard and decided by the court in a summary way under the provisions of this Act.

21 Jurisdiction of court if defendant absent from ACT

The court has jurisdiction even though the defendant is not in the ACT.

22 Proceeding of court if it considers offence should be dealt with on indictment

If, for an information in relation to an offence that is punishable either summarily or on indictment it appears to the court, on the close of the case for the prosecution, that the offence ought to be dealt with on indictment, the court must abstain from adjudication on the information and must deal with the case for the purpose of committal for trial only.

23B Rectification of certain orders etc

(1) In this section:

penalty includes—

(a) the cancellation, forfeiture, suspension or other loss of a licence or privilege; and

(b) the disqualification from obtaining or holding a licence or exercising a privilege.

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the court, in relation to a proceeding, means the magistrate who convicted the defendant or made the order against the defendant.

(2) Subject to subsection (3), if the court enters a conviction or makes an order against a defendant and—

(a) imposes a penalty that is contrary to law; or

(b) fails to impose a penalty that is required by law to be imposed;

the court may, on its own initiative or on the application of a party to the proceeding, reopen the proceeding and, after giving the parties an opportunity of being heard, amend the conviction or order to impose a penalty that is in accordance with the law.

(3) The court may reopen a proceeding under subsection (2)—

(a) on its own initiative before the end of 28 days after the day when the penalty was imposed, the conviction was entered or the order was made; or

(b) on application under subsection (2) before the end of 28 days after the day when the penalty was imposed, the conviction was entered or the order was made; or

(c) with the consent of the parties to the proceeding, at any time.

(4) Subject to subsection (5)—

(a) the registrar must serve on each party to the proceeding written notice of the intention of the court to reopen the proceeding on its own initiative under subsection (2) at least 3 business days before the proceeding is reopened; and

(b) an applicant must serve on the registrar and, at least 3 business days before the day when the application is heard, on the other party to the proceeding, written notice of an application mentioned in subsection (2).

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(5) The requirements of subsection (4) may be dispensed with by the court when each of the parties is before the court.

(6) If, under subsection (2), the court reopens a proceeding and, in the absence of a party to the proceeding, amends a conviction or order, the registrar must serve written notice of the amended conviction or order on the absent party as soon as practicable.

(7) Service of any notice mentioned in subsection (4) or (6) may be made in accordance with section 41 as if the notice were a summons issued in relation to an information.

(8) The jurisdiction given to the court by subsection (2) must be exercised only on the evidence and material before the court in the original proceeding.

(9) A proceeding must not be reopened under subsection (2) in relation to a conviction or order that is the subject of an appeal.

(10) If a proceeding reopened under this section has not been decided in relation to a conviction or order that, after the proceeding has been reopened but before it is decided, becomes the subject of an appeal, the reopened proceeding is stayed until the appeal is decided.

(11) If the court reopens a proceeding under subsection (2), the court may make any order about costs that it considers just and reasonable.

(12) Subject to subsection (13), an order made or a conviction or order amended by the court in deciding a proceeding that has been reopened under this section takes effect, unless the court otherwise directs, from the beginning of the day when the original conviction was entered or the original order was made.

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(13) For part 3.10 (Criminal appeals), if the court, in deciding a proceeding that has been reopened under this section, makes an order or amends a conviction or order, the time within which an appeal may be made from the order, amended conviction or amended order begins on the day when the order was made, or the conviction or order was amended.

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Part 3.3 Beginning criminal proceedings

Division 3.3.1 Beginning criminal proceedings—general

25 Informations

A proceeding may be started in the court by information laid by the informant or by a lawyer or anyone else representing the informant.

Division 3.3.2 Informations

26 Laying of informations

An information may be laid before a magistrate in any case where a person has committed or is suspected of having committed, in the ACT, an indictable offence or an offence that may be dealt with summarily as provided in section 19.

27 Description of people and property and of offences

(1) Such description of people or things as would be sufficient in an indictment is sufficient in informations.

(2) The description of any offence in the words of the Act, ordinance, law, order, by-law, regulation, or other instrument creating the offence, or in similar words, is sufficient in law.

28 Power of court to amend information

(1) If at the hearing of any information or summons any objection is taken to an alleged defect in it in substance or form or if objection is taken to any variance between the information or summons and the evidence adduced at the hearing of it, the court may make any amendment in the information or summons that appears to it to be

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desirable or to be necessary to enable the real question in dispute to be decided.

(2) The court must not make an amendment under subsection (1) if it considers that the amendment cannot be made without injustice to the defendant.

29 Court may adjourn hearing if amendment made

If in any case where an amendment in an information or summons has been made under section 28 the court considers that the defendant has been misled by the form in which the information or summons has been made out, it may adjourn the hearing of the case for the period it considers appropriate and may make any order about the costs of the adjournment it considers appropriate.

30 Form of information

(1) If a warrant is intended to be issued in the first instance against the person charged, the information must be in writing and on oath.

(2) The oath may be made by the informant or someone else.

(3) If a summons instead of a warrant is intended to be issued in the first instance against the person charged, the information may be made orally and without oath.

(4) Subsection (3) applies whether or not the law under which the information is laid requires it to be in writing.

Division 3.3.3 Summonses

37 When magistrate may issue summons

If an information is laid before a magistrate, the magistrate may issue a summons.

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38 Form of summons

A summons issued in the case of an information must be directed to the defendant, and must state shortly the matter of the information and require the defendant to appear at a certain time and place before the court, to answer to the information and to be further dealt with according to law.

41 Service of summons

(1) A summons issued in relation to an information may be served on the person to whom it is directed by—

(a) giving a copy of the summons to the person; or

(b) by leaving a copy of the summons at the last-known or usual home or business address of the person with someone who appears to be at least 16 years old and to live or be employed at the address.

(2) Service of a summons under subsection (1) must be effected at least 72 hours before the time appointed in the summons for the hearing of the information.

(3) If it appears to the court or a magistrate or the registrar, by statement on oath or by affidavit, that from any cause service in accordance with subsections (1) and (2) cannot be effected, the court or magistrate or the registrar may extend the time for hearing.

(4) Service of a summons in accordance with this section may be proved by the oath of the person who served it or by affidavit or otherwise.

Division 3.3.4 Warrants

42 Issue of warrant and summons

(1) This section applies if—

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(a) an information is laid before a magistrate under division 3.3.2 against a person for an offence; and

(b) the information is substantiated by the oath of the informant or a witness; and

(c) the person is not in custody.

(2) The magistrate may issue a warrant for the person's arrest, and for bringing the person before the court to answer to the information and to be further dealt with according to law.

(3) However, the magistrate may issue a summons instead of the warrant if the magistrate considers it appropriate.

(4) The issue of the summons does not prevent a magistrate from issuing a warrant at any time before or after the time mentioned in the summons for the person's appearance.

(5) However, subsection (4) does not authorise the issue of a warrant to bring the person before the court to answer to the information if a summons has been served on the person for the offence in accordance with section 116B (Service of summons for prescribed offence).

43 Procedure on filing indictment

(1) If an indictment in relation to an offence committed in the ACT has been filed in the Supreme Court by the Attorney-General, Attorney-General of the Commonwealth or other officer, authority or person duly appointed in that behalf against any person then at large, whether on bail or not, the registrar of the Supreme Court must at any time after the end of the then sittings of the court if the person so indicted has not already appeared and pleaded to the indictment, on application by or on behalf of the prosecutor, grant to the prosecutor or person applying on the prosecutor's behalf a certificate that the indictment has been filed.

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(2) On production of the certificate to a magistrate, the magistrate must—

(a) if the person indicted is, at the time of both the application for and the production of the certificate, confined in prison for any other offence than that charged in the indictment—on proof on oath that the person so confined in prison is the person charged and named in the indictment, issue a warrant directed to the gaoler of the prison where the person is so confined, commanding the gaoler to detain the person in the gaoler's custody until, by a writ of habeas corpus, the person is removed from custody for the purpose of being tried on the indictment, or until the person is otherwise removed or discharged out of custody by due course of law; and

(b) in any other case—issue a warrant to apprehend the person so indicted and to cause the person to be brought before the court to be dealt with according to law and the court when any person apprehended under any such warrant is brought before it must on proof on oath that the person is the person charged and named in the indictment, and without further inquiry commit the person for trial or admit the person to bail in accordance with the *Bail Act 1992*.

44 Direction of warrant

A warrant to apprehend a defendant that the defendant may answer to an information may be directed either to any police officer by name or generally to all police officers within the ACT, without naming them, or to both.

45 Any police officer may execute warrant

If a warrant is directed to all police officers, any police officer may execute the warrant as if it were directed specially to the police officer by name.

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47 Form of arrest warrant

A warrant issued on an information must—

(a) briefly state the offence or matter of the information; and

(b) name or otherwise describe the person against whom it is issued; and

(c) order the police officers to whom it is directed to—

(i) arrest the person; and

(ii) bring the person before the court to answer the information and to be further dealt with according to law.

48 Warrant to be in force till executed

A warrant need not be returnable at any particular time, but may remain in force until executed.

49 Sunday warrants

A magistrate may issue a warrant on an information of an indictable offence, or a search warrant, on a Sunday as on any other day.

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Part 3.4 Hearing of criminal proceedings

Division 3.4.1 Hearing of criminal proceedings—general

53 Conduct of case generally

(1) The informant may—

(a) conduct his or her case personally or by a lawyer; and

(b) examine and cross-examine the witnesses giving evidence for or against the informant; and

(c) if the defendant gives any evidence or examines any witness about anything other than general character—call and examine witnesses in reply.

(2) The defendant may—

(a) fully answer and defend personally or by a lawyer; and

(b) give evidence; and

(c) examine and cross-examine the witnesses giving evidence for or against the defendant.

54 If both parties present in court to hear case

The court must hear and decide an information if both parties to the information appear personally or by lawyers or anyone else appearing for them.

Division 3.4.2 Warrants for witnesses

63 Warrant to bring witness to court

(1) If a witness—

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(a) has been informed of the time and place for the hearing; and

(b) has been requested, has given an undertaking, or has been served with a subpoena, to appear at the hearing to give evidence; and

(c) the witness does not appear in accordance with the request, undertaking or subpoena and does not provide to the court a reasonable explanation for his or her non-appearance;

the court may issue a warrant requiring the witness to be brought before the court at the time and place specified in the warrant to give evidence.

(2) In this section:

subpoena includes summons.

(3) Subsection (2) and this subsection expire on the existing rules expiry day under the *Court Procedures Act 2004*, section 60 (3).

64 Warrant in the first instance

If a magistrate is satisfied by evidence on oath that it is probable that a person whose evidence is desired will not attend to give evidence without being compelled to do so, then, instead of issuing a subpoena, the magistrate may issue a warrant in the first instance.

Division 3.4.3 Remand

70 Remand of defendant

(1) This section applies if the court considers it is necessary or desirable to adjourn the hearing of a proceeding for an indictable offence—

(a) because of the absence of witnesses; or

(b) for any other reasonable cause.

(2) The court may—

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(a) adjourn the hearing; and

(b) remand the defendant into the custody of the administrator—

(i) by warrant; or

(ii) if the period of remand is not longer than 3 days—by an order made orally.

(3) Any single period of remand under this section must be no longer than—

(a) 28 days; or

(b) if the defendant chooses to be remanded for a longer period without review—a longer period that the court considers reasonable.

(4) The warrant or order must direct the administrator to—

(a) keep the defendant in custody for a stated period; and

(b) bring the defendant before the court at a stated time and place for the hearing.

(5) If the warrant or order gives a transfer direction to all police officers, the direction is taken to be given to each police officer and may be executed by any police officer.

(6) If the warrant or order gives a transfer direction to all escorts, the direction is taken to be given to each escort and may be executed by any escort.

(7) In this section:

transfer direction means a direction that the defendant be taken, safely transported and delivered into the custody of the administrator.

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72 Bringing up during remand

The court may order the defendant to be brought before it at any time before the end of the time for which the defendant was so remanded, and the officer in whose custody the defendant then is must obey the order.

72A Hearing of bail applications

(1) Unless the court otherwise directs, if—

(a) a person who is in custody is required or entitled to appear, or is required to be brought, before the court for the hearing of an application in relation to bail; and

(b) an audiovisual link is available between the place where the court is sitting and a place where the person is in custody;

the proceeding must be conducted by the audiovisual link.

(2) The court may at any time vary or revoke a direction made under subsection (1), either on its own initiative or on the application of a party to the proceeding.

(3) In this section:

audiovisual link—see the *Evidence (Miscellaneous Provisions) Act 1991*, dictionary.

72B Defendant's appearance in proceeding other than bail proceeding

For section 70 and section 72, a person who is directed by warrant or order to bring a person before the court must ensure that, if section 311 (Appearance by audiovisual or audio links) applies, the person appears before the court in accordance with that section.

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73 Bail of defendant during examination

Instead of detaining the defendant in custody during the period for which the defendant is remanded, the magistrate before whom the defendant appears or is brought may admit the defendant to bail in accordance with the *Bail Act 1992*.

Division 3.4.4 Committal and recognisance

73A Extended application of div 3.4.4

(1) This division applies in relation to a person for whom a warrant prescribed under the rules has been issued under the rules as if all necessary changes, and any changes prescribed under the rules, were made.

(2) This section does not limit any other application of this division.

74 Committal or detention before decision

If the court commits a defendant by way of remand or on adjournment, or at any time before the decision, it may remand the defendant into the custody of the administrator.

75 Committal of witness or of defendant after decision

(1) If the court commits a witness, or a person sought to be made a witness, it must remand him or her into the custody of the administrator.

(2) If the court commits a defendant after the decision, it must remand the defendant into the custody of the administrator.

76 Witnesses may be discharged on recognisance

A witness, other than a witness committed under section 312 (Failure to give evidence—committal), or person sought to be made a witness may be discharged on recognisance.

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77 Recognisances

If the court is authorised to discharge the witness, or person sought to be made a witness, on recognisance, it may order his or her discharge on his or her entering into a recognisance, with or without a surety or sureties at its discretion, conditioned for his or her appearance at the time and place to which the hearing is adjourned, or that is named in the recognisance.

78 Issue of warrant for non-appearance

If the witness, or person sought to be made a witness, does not appear at the time and place mentioned in the recognisance, the court may adjourn the hearing, and may issue a warrant for his or her apprehension in accordance with division 3.3.4 (Warrants).

79 Recognisances taken out of court

(1) A recognisance under this Act need not be entered into before the court, but may be entered into by the parties before—

(a) a magistrate; or

(b) the registrar; or

(c) a police officer in charge of a police station; or

(d) if a party is in a prison or remand centre—the officer in charge of the prison or the administrator of the remand centre.

(2) The provisions of this Act in relation to recognisances taken before the court apply in relation to the recognisance as if it had been entered into before the court.

80 Forfeited recognisances—how enforced

If the conditions, or any of them, in a recognisance entered by a witness or a person sought to be made a witness are not complied with, any magistrate may certify on the back of the recognisance in

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what respect the conditions have not been observed, and give it to the proper officer, to be proceeded on in a similar way as other recognisances, and that certificate is taken to be deemed sufficient prima facie evidence of the recognisance having been forfeited.

82 Conveying people to custody

(1) The person to whom a warrant of remand or commitment is directed must convey and deliver the person named in the warrant into the custody of the administrator, and must also deliver the warrant to the administrator.

(2) If a person is delivered to the administrator in accordance with subsection (1), the administrator must give a written acknowledgment of the delivery stating the condition of the person at the time.

Division 3.4.5 Adjournment of criminal proceedings

83 Magistrate may adjourn court generally

If all the cases have not been heard and decided at any sitting of the court, the magistrate may adjourn the cases remaining unheard or undecided, either to the next day appointed for the holding of the court or to the other time the magistrate considers appropriate.

84 Particular cases may be adjourned

(1) If, before or during the hearing or further hearing of any information, it appears advisable, the magistrate may, in his or her discretion, adjourn the hearing or further hearing to a certain time and place to be then appointed and stated in the presence and hearing of the parties or the lawyers or other people appearing for them.

(2) The magistrate may, in the meantime, suffer the defendant to go at large or commit the defendant to gaol or a place of security, or to

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any other safe custody the magistrate considers appropriate, or may admit the defendant to bail in accordance with the *Bail Act 1992*.

85 Proceeding if either party not present at adjourned hearing

(1) This section applies if either or both of the parties do not appear personally or by lawyers or anyone else appearing for them at the time and place to which the hearing or further hearing is adjourned.

(2) The court may—

(a) go ahead with the hearing or further hearing as if the party or parties were present; or

(b) if the informant does not appear—dismiss the information, with or without costs as the court considers just.

86 Proceeding if both parties present at adjourned hearing

(1) This section applies if the parties appear personally or by lawyers or anyone else appearing for them at the time and place to which the hearing or further hearing is adjourned.

(2) The court may go ahead with the hearing or further hearing.

87 Witness to attend adjourned etc hearing

(1) This section applies to a person who is required by summons to attend a hearing to give evidence or produce a document if the hearing is adjourned or postponed.

(2) The person must attend at the time and place to which the hearing is adjourned or postponed without the issue or service of a further summons.

(3) However, the person is entitled to additional expenses for attending.

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88 Postponement of hearing

If, on the return of any summons or at any adjournment of the hearing or at the time to which the hearing is postponed, a magistrate is not present, the registrar may, and after the lapse of an hour, at the request of the informant, must, postpone the hearing until the next day when a court will be held at the place mentioned in the summons or to which the case has been so adjourned.

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Part 3.5 Proceedings for indictable offences

Division 3.5.1 Preliminary

88A Meaning of *jury* in pt 3.5

In this part:

jury means a reasonable jury properly instructed.

Division 3.5.2 Indictable offences—beginning of proceedings

89 Disobedience of summons

(1) This section applies if—

(a) a person is alleged by an information to have committed an indictable offence; and

(b) a summons is issued against the person; and

(c) the person does not appear before the court at the time and place mentioned in the summons; and

(d) the court is satisfied, on oath, that the summons was properly served on the person a reasonable time before the time mentioned in the summons for the appearance; and

(e) the information is substantiated by the oath of the informant or a witness.

(2) The court may issue a warrant for the person's arrest and for bringing the person before the court to answer to the information and to be further dealt with according to law.

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(3) This section does not apply if an order has been made under section 89A (1) excusing the person from attending before the court.

89A Accused person may be excused from attendance before court

(1) If—

(a) an information for an indictable offence has been laid; and

(b) a summons has been issued against the person named in the information;

the court may, on an application made by or on behalf of the person, by order excuse the person from attendance before the court to answer the information or for any other purpose in connection with the proceeding begun by the information.

(2) An order under subsection (1) may be made—

(a) at any time after the issue of the summons and before the completion of the taking of evidence for the prosecution; and

(b) whether or not any evidence has been taken in the proceeding; and

(c) whether or not the applicant for the order is before the court or has attended before the court in relation to the proceeding.

(3) The court must not make an order under subsection (1) unless the court has been informed, by or on behalf of the applicant, that the applicant is represented by a lawyer for the purposes of the proceeding.

(4) The court may, at any time during a proceeding begun by an information for an indictable offence, direct the informant to give to a person in relation to whom an order has been made under subsection (1) written notice requiring the person to attend before the court, for the purposes of the proceeding, at the time and place specified by the court.

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(5) If—

(a) a person has been excused, under subsection (1), from attendance before the court; and

(b) after all the evidence for the prosecution has been taken, the court is of the opinion, having regard to all the evidence before it, that the evidence is capable of satisfying a jury beyond reasonable doubt that the person has committed an indictable offence;

the court must direct the informant to give to the person a written notice requiring the person to attend, at the time and place specified by the court, to be dealt with in accordance with section 92.

(6) A notice under subsection (4) or (5) may be given to a person by—

(a) giving a copy of the notice to the person; or

(b) leaving a copy of the notice at the last-known or usual home or business address of the person with someone who appears to be at least 16 years old and to live or be employed at the address.

(7) The giving of a notice under subsection (4) or (5) may be proved in the same way as the service of a summons.

(8) If an accused person does not attend before the court in accordance with a notice under subsection (4) or (5), the court may issue a warrant for the arrest of the person and for bringing the person before the court at the time and place specified in the warrant.

90 Procedure if informant proposes to tender written statements to court

(1) If a person is alleged to have committed an indictable offence, the informant, not later than 14 days, or any shorter period the court may approve, before the date fixed for the taking of the preliminary examination, may give to the person a written notice—

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(a) informing the person of the time and place of the preliminary examination; and

(b) stating that the court will be asked to admit written statements as evidence without requiring the attendance of the people who made the statements; and

(c) setting out the terms of this section and section 90AA.

(2) A notice under subsection (1) is not duly given unless it is accompanied by—

(a) a copy of the information; and

(b) a list of people who have made written statements that the informant proposes to tender to the court at the preliminary examination; and

(c) a copy of each of the statements; and

(d) a list of the documents and things (if any) mentioned in the statements that the informant proposes to tender to the court at the preliminary examination; and

(e) if a thing, other than a document, cannot adequately be described in that list—a photograph of the thing; and

(f) a copy of each document mentioned in the list.

(3) A notice and accompanying documents may be given to an accused person in any way in which a summons issued in relation to an information may be served under any provision of this Act.

(4) The giving of a notice under subsection (3) may be proved in the same way as the service of a summons.

(5) If a notice has been given to an accused person under this section, the informant, not later than 7 days, or any shorter period the court may approve, before the date set down for the preliminary examination, must file with the registrar a copy of the notice

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together with a copy of each document and photograph accompanying the notice.

(6) If copies are filed with the registrar under subsection (5), the registrar must give them before the preliminary examination to the magistrate constituting the court for the preliminary examination.

(7) The informant, if so requested by the accused person or a lawyer representing the accused person must, before the taking of the preliminary examination, permit the accused person or the accused person's lawyer to inspect the documents and things mentioned in the list (if any) given to the accused person under subsection (2) (d).

90AA Written statements may be admitted in evidence

(1) If the informant has given notice to the accused person in accordance with section 90, the court at the preliminary examination may admit a written statement (a copy of which accompanied the notice) as evidence of the matters in the statement.

(2) The statement is the deposition of the person who made it if admitted into evidence.

(3) A written statement must not be admitted in evidence by the court unless—

(a) it is made in the form of a statutory declaration; and

(b) it contains a statement that the person who made it—

(i) is at least 18 years old; or

(ii) is at least 14 years old but younger than 18 years old; and

(c) it contains a statement that, before the person signed it, the person who made it read the statement or had it read to the person.

(4) If a person has made a written statement that, apart from this subsection, would be admissible under subsection (1), that statement

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is not admissible if the accused person, not later than 5 days before the date set down for the preliminary examination, gives written notice to the informant that the person requires the attendance at the preliminary examination of the person who made the statement.

(5) If the accused person gives written notice to the informant under subsection (4), the person must file a copy of the notice with the registrar.

(6) If an accused person has given notice under subsection (4), the person may, at any time before the preliminary examination, notify the informant in writing that the person withdraws that notice and this section applies as if the notice under subsection (4) had not been given.

(7) Despite the failure by an accused person to give notice under subsection (4), the person may object at the preliminary examination to a written statement being tendered in evidence and the court may, if it considers appropriate, uphold the objection and require the person who made the statement to attend and give evidence to the court.

(8) If, under this section, the court admits a written statement, the court may, on its own initiative, require the person who made the statement to attend before the court to give evidence.

(9) If it appears to the court that any part of a written statement tendered in evidence under this section is inadmissible according to the rules of evidence, the court may, if the statement is otherwise admissible under this section, admit that statement, but, if it does so, must identify the part that is inadmissible and must, with reference to that part, write on the statement the words ‘ruled inadmissible’ or words to that effect.

(10) If the court admits a written statement under this section, the informant, or a lawyer representing the informant, may call the person who made the statement to give oral evidence and the person

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and any other witnesses, other than witnesses called by the accused person, who attend before the court—

(a) must be examined in the presence or hearing of the accused person and, if the accused person wishes, in the presence or hearing of a lawyer representing the accused person; and

(b) may be cross-examined by the accused person or his or her lawyer.

90AB Preliminary examination if written statements not tendered

(1) This section applies if—

(a) a person is alleged to have committed an indictable offence; and

(b) a notice has not been given to the person in accordance with section 90.

(2) The court must take the preliminary examination or statement on oath of anyone (a ***sworn person***) who knows the facts and circumstances of the case.

(3) The examination or statement must be taken in the presence or hearing of—

(a) the person; and

(b) if the person asks—a lawyer representing the person.

(4) The person or the person's lawyer may cross-examine a sworn person.

90ABA Attendance not required under s 90AA or s 90AB if order made under s 89A

An accused person is not required to be present during the preliminary examination under section 90AA (10) or section 90AB

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if the person is excused from attendance during the examination under section 89A.

90A Plea of guilty in committal proceeding

(1) This section does not apply in relation to a person charged with an indictable offence punishable by imprisonment for life.

(2) Subsections (3), (4), (5) and (6) do not apply in relation to a person charged with an offence in relation to which the Crimes Act, section 375 applies.

(3) A person (the ***accused person***) who is before the court charged with an indictable offence may at any stage of the proceeding plead guilty to the charge.

(4) The court may accept or reject the plea but the rejection of the plea at any stage of the proceeding does not prevent the accused person from pleading guilty under this section at a later stage of the proceeding and the court may accept or reject the plea at that later stage.

(5) If the court rejects the plea, the proceeding before the court must continue as if the plea had not been made.

(6) If—

(a) the court accepts the plea; and

(b) any of the following subparagraphs applies to the offence:

(i) the offence is under a law in force in the ACT punishable either on indictment or summary conviction;

(ii) the offence may be dealt with summarily without the accused person's consent;

(iii) the offence may be dealt with summarily if the accused person consents and the accused person consents to it being dealt with summarily;

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(iv) the offence may be dealt with summarily if the prosecutor requests and the prosecutor requests that it be dealt with summarily; and

(c) it appears to the court that it is proper to deal with the case summarily;

the court may, without hearing further evidence, sentence or otherwise deal with the accused person and finally dispose of the charge and all incidental matters.

(7) If—

(a) the court accepts the plea; and

(b) any of the following subparagraphs applies to the offence:

(i) it does not appear to the court that it is proper to deal with the case summarily;

(ii) the offence is punishable only on indictment;

(iii) the offence may be dealt with summarily if the accused person consents, but the accused person does not consent to it being dealt with summarily;

(iv) the offence may be dealt with summarily if the prosecutor requests, but the prosecutor does not request that it be dealt with summarily;

(v) this subsection applies to the accused person under the Crimes Act, section 375;

the Magistrates Court must commit the accused person to the sittings of the Supreme Court that the Supreme Court directs and the Supreme Court must deal with the accused person in accordance with subsections (8) to (13).

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(8) A committal under subsection (7) is taken, for all purposes relating to the venue or change of venue of a proceeding consequent on the committal, to be a committal for trial.

(9) The Supreme Court may order that the proceeding before the Magistrates Court where the accused person pleaded guilty be continued at a time and place stated in the order.

(10) The Supreme Court must make an order under subsection (9) if—

(a) it appears to the Supreme Court from the information or evidence given to or before it that the facts in relation to which the accused person was charged before the Magistrates Court do not support the charge to which the accused person pleaded guilty; or

(b) the accused person or a lawyer representing the accused person or informant asks that the order be made.

(11) Except if an order is made under subsection (9), the Supreme Court has the same powers of sentencing or otherwise dealing with the accused person and of finally disposing of the charge and of all incidental matters as it would have had if the accused person, on arraignment at any sittings of the court, had pleaded guilty to the offence charged on an indictment filed by the Attorney-General or the Attorney-General of the Commonwealth.

(12) The procedure relating to committal for trial applies, as nearly as may be, to a committal under subsection (7) and bail may be granted as on a committal for trial, but a person must not be bound over to give evidence on a committal under that subsection unless the court otherwise orders.

(13) If an order is made by the Supreme Court under subsection (9) that the proceeding before a court where an accused person pleaded guilty be continued at a time and place stated in the order—

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(a) the proceeding must be continued in all respects as if the accused person had not pleaded guilty and as if the proceeding had been adjourned by the court to the time and place so stated; and

(b) the Supreme Court may exercise any power that the Magistrates Court might have exercised under division 3.4.3 (Remand) if the order had been an order made by the Magistrates Court adjourning the proceeding to the stated time and place, and that division applies in relation to the accused person.

91 Court may discharge accused

When all the evidence offered by the prosecution in relation to the indictable offence with which the accused person is charged has been taken, the court must—

(a) if the court is of the opinion, having regard to all the evidence before it, that the evidence is capable of satisfying a jury beyond reasonable doubt that the person has committed an indictable offence—proceed in accordance with section 92; or

(b) if the court is not of the opinion mentioned in paragraph (a) and the person is in custody in relation to the offence—immediately order that the person be released from custody in relation to the offence.

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92 Proceeding if evidence sufficient to put accused on trial

(1) If the court is of the opinion, having regard to the evidence for the prosecution, that the evidence is capable of satisfying a jury beyond reasonable doubt that the accused person has committed an indictable offence, the court must charge the accused person with the offence and must say to the accused person these words, or words to the like effect:

‘Do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so; but whatever you say may be given in evidence against you on your trial. You are clearly to understand that you have nothing to hope from any promise or favour, and nothing to fear from any threat that may have been held out to you to induce you to make any admission or confession of your guilt; but whatever you now say may be given in evidence against you on your trial, notwithstanding any such promise or threat.’.

(2) Subsection (1) does not apply in relation to a person charged with an indictable offence if the court has decided to dispose of the case summarily under a law in force in the ACT.

(3) If the court commits the accused person for trial before the Supreme Court, any statement made by the person in reply to the question mentioned in subsection (1) is, on the trial of the accused person, admissible as evidence.

(4) Whether or not the accused person makes a statement in reply to the question mentioned in subsection (1), the magistrate must ask the person if the person wishes to give evidence himself or herself or to call any witnesses on his or her behalf and, if the accused person or any other person then gives evidence, the prosecutor is at liberty to cross-examine the witness and to adduce evidence in reply.

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92A Committal for sentence for indictable offence tried summarily

(1) On the summary conviction of a person charged with an indictable offence, the court may, if it appears to it that because of the character and antecedents of the person it is desirable that sentence be passed on the person by the Supreme Court, commit the person for sentence to the sittings of the Supreme Court that the court directs.

(2) If the court commits a person for sentence under subsection (1), the court must deal with the person in the same way as a person who is committed for trial under section 94 (b).

(3) The Supreme Court has the same powers of sentencing or otherwise dealing with a person committed for sentence under this section as it would have had if the person had been convicted in that court.

92B Depositions as evidence

If—

(a) a person is charged with an indictable offence; and

(b) the person has not admitted the truth of the charge; and

(c) the court has decided to dispose of the case summarily under a law in force in the ACT;

the depositions of the witnesses who gave evidence for the prosecution at the preliminary hearing are taken to be evidence given on the hearing of the charge and the witnesses, or any of them, must, if so required by the prosecutor or the defendant, be called or recalled for examination or cross-examination.

93 Admissions and confessions

This Act does not prevent the prosecutor in any case from giving in evidence any admission or confession or other statement of the

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defendant made at any time if it is admissible as evidence against the defendant.

Division 3.5.3 Indictable offences—proceedings after hearing of evidence

94 Discharge or committal for trial

When all the evidence for the prosecution and the defence have been taken in relation to the indictable offence with which the accused person is charged, the court must—

(a) if the court is of the opinion, having regard to all the evidence before it, that a jury would not convict the person of an indictable offence and the person is in custody in relation to the offence—immediately order that the person be released from custody in relation to the offence; or

(b) if the court is not of the opinion mentioned in paragraph (a)—it must commit the person for trial for the offence before the Supreme Court and, by warrant, commit the person in custody until the trial or until the defendant is released on bail.

95 Depositions of dead or absent people

If, on the trial of a person who has previously been charged before the court with an indictable offence and committed for trial, it is proved—

(a) that a witness whose depositions were taken at the hearing of the charge before the magistrate is dead or so ill as not to be able to travel or to give evidence, or is absent from Australia; and

(b) that the depositions of the witness were taken in the presence of the accused person; and

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(c) that the accused person or a lawyer representing the accused person had a full opportunity of cross-examining the witness;

the depositions are admissible as evidence—

(d) if taken in the way specified in section 316 (3)—be read as evidence at the trial of the accused person without further proof unless it is proved that the magistrate by whom the depositions purport to have been signed did not in fact sign them; or

(e) if recorded by 1 of the ways specified in section 316 (2)—be read as evidence at the trial of the accused person if it is proved that the record is a correct record of the depositions and that the transcript is a correct transcript of that record.

96 Evidence for defence

If a person is charged with an indictable offence as such, the court is bound to hear any evidence tendered on the person's behalf tending to show that the defendant is not guilty of the offence with which the defendant is charged.

Division 3.5.4 Indictable offences—costs

97 Discontinued proceeding

If—

(a) in a proceeding under this part, the court is of the opinion that the evidence for the prosecution is not capable of satisfying a jury beyond reasonable doubt that the accused person has committed an indictable offence or is of the opinion, having regard to all the evidence before it, that a jury would not convict the defendant of an indictable offence; or

(b) a proceeding under this part is discontinued for any other reason;

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the court may order that the informant pay to the defendant the costs the court considers just.

Division 3.5.5 Indictable offences—witness recognisances

103 Recognisance of witnesses etc

(1) The court may bind by recognisance every person whose written statement was admitted in evidence under section 90AA, or who was examined before it, to appear at the court at which the defendant is to be tried, and then and there to give evidence against the defendant.

(2) The recognisance must particularly specify the profession, trade, or calling of every person who enters into it, together with the person's full name and place of residence.

104 Signature of magistrate—notice to witnesses

Every such recognisance must be duly acknowledged by every person who enters into it, and must be subscribed by the magistrate before whom it is acknowledged, and a notice of it signed by the magistrate must at the same time be given to every person bound by it.

105 Court may commit noncompliant witness

(1) If a witness does not enter into a recognisance required by the court, the court may, by warrant, commit the witness to a prison or remand centre until after the defendant's trial, unless the witness enters into the recognisance before a magistrate.

(2) If the witness is committed to a prison or remand centre, a magistrate may, by order, direct the person in charge of the prison or the superintendent of the remand centre to release the witness from custody on the warrant if—

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(a) the defendant is not committed for trial for the offence with which the defendant is charged; or

(b) the relevant officer declines to file an information against the defendant for the offence; or

(c) the witness enters into the recognisance before a magistrate.

Division 3.5.6 Indictable offences—other provisions

105A Meaning of *certified copy* of depositions in div 3.5.6

In this division:

certified copy, of depositions, means—

(a) if a record of the deposition was made in accordance with section 316 (2)—a transcript of the record certified in accordance with section 314 (2); or

(b) if the depositions were taken down in writing and signed in accordance with section 316 (3)—the depositions as taken down and signed.

106 Giving depositions etc to director of public prosecutions

(1) If a defendant is committed for trial or for sentence, the court must as soon as possible after the conclusion of the case before it, give to the director of public prosecutions or a person authorised by the director of public prosecutions all informations, examinations, depositions, statements, bail undertakings and other documents sworn taken or acknowledged in the case.

(2) In this section:

depositions means a certified copy of depositions.

statement includes a certified copy of the statement (if any) made by a defendant in reply to the question mentioned in section 92 (1).

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107 Giving documents to proper officer of court

(1) After being given the documents and before the day of trial, the director of public prosecutions or a person authorised by the director of public prosecutions has and is subject to the same duties and liabilities in relation to the documents on a certiorari directed to him or her, or on a rule or order directed to him or her instead of that writ, as the court would have had and been subject to on a certiorari to it if the documents had not been given.

(2) The director of public prosecutions, a person authorised by the director of public prosecutions, the person representing the director of public prosecutions or the person representing the informant, must, at any time after the opening of the Supreme Court at the sitting at which the trial is to be had, give the documents or any of them to the proper officer of the Supreme Court, if the presiding judge so directs.

108 Accused person may obtain copies of depositions etc

(1) This section applies if—

(a) a person is charged with an indictable offence; and

(b) the Magistrates Court commits the person for trial before the Supreme Court.

(2) At any time before the person's trial before the Supreme Court starts, the person may apply to the registrar—

(a) for certified copies of depositions in the case; and

(b) for the evidence given on the cross-examination or the examination of any witnesses in the case.

(3) The registrar must give the person the certified copies of depositions and the evidence applied for under subsection (2).

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(4) If the person is in custody, the person having the custody of the person must give any application under subsection (2) to the registrar.

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Part 3.6 Proceedings for offences punishable summarily

108A Indictable offences dealt with summarily

If—

(a) a person is charged with an indictable offence; and

(b) the court has decided to dispose of the case summarily under a law in force in the ACT;

this part applies, so far as it is applicable, to the summary disposal of the case.

109 Dismissal or adjournment in absence of informant

(1) If—

(a) the defendant appears (whether voluntarily, in accordance with a summons or under a warrant) at the time and place for the hearing of an information in relation to an offence punishable summarily; and

(b) the informant, having been notified of the time and place for the hearing, does not appear either personally or by a lawyer appearing for the informant;

the court must, subject to subsection (2), dismiss the information.

(2) The court may, if it considers it is appropriate to do so, adjourn to another day the hearing of an information that would otherwise be dismissed under subsection (1).

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110 Hearing in absence of defendant

(1) If a summons has been served in accordance with section 41 and the defendant does not appear when called, the court may either—

(a) proceed to hear and decide the case in the absence of the defendant; or

(b) on oath being made before it, substantiating the matter of the information to its satisfaction, issue a warrant for the arrest of the defendant and to bring the defendant before the court to answer to the information and be further dealt with according to law.

(2) If the court proceeds under subsection (1) (a)—

(a) the evidence of the informant or another person may be given orally; or

(b) a written statement made by the informant or another person may be admitted as evidence of the matters contained in it.

(3) A written statement admitted in evidence constitutes the depositions of the person who made the statement.

(4) A written statement must not be admitted in evidence unless it is sworn before—

(a) a lawyer; or

(b) a justice of the peace; or

(c) the registrar; or

(d) a person prescribed by regulation or rule.

(5) If the court admits a written statement in evidence it may, on its own initiative, adjourn the hearing of the information and require the person who made the statement to attend before the court to give evidence.

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(6) Although a part of a written statement tendered in evidence under this section is inadmissible according to the rules of evidence, the statement is nevertheless admissible under this section as evidence of the matters contained in the remainder of that statement, but, if the court admits such a statement, the court must identify the part that is inadmissible and must, with reference to that part, write on the statement 'ruled inadmissible' or words to that effect.

111 Adjournment if defendant does not appear

(1) This section applies if—

(a) the defendant does not appear before the court for the hearing of the information; and

(b) the court has issued a warrant for the defendant's arrest.

(2) The court must adjourn the hearing until the defendant is arrested.

(3) If the defendant is arrested under the warrant, the defendant must be detained in safe custody, until the defendant can be brought before the court at a time and place fixed by the court.

(4) The court must give the informant notice of the time and place fixed.

113 Proceeding at hearing on defendant's confession

If the defendant is present at the hearing, the substance of the information must be stated to the defendant, and the defendant must be asked if the defendant has any cause to show why the defendant should not be convicted or why an order should not be made against the defendant, and if the defendant has no cause to show, the court may convict the defendant, or make an order against the defendant accordingly.

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114 If defendant does not admit the case

(1) This section applies if the defendant does not admit the truth of the information.

(2) The court must hear—

(a) the informant and the informant's witnesses (if any); and

(b) if the defendant wants to give evidence—the defendant; and

(c) the defendant's witnesses (if any); and

(d) if the defendant has given evidence other than about the defendant's general character—the informant's witnesses in reply (if any).

(3) Having heard each party and the evidence, the court must decide the information and do 1 of the following as justice requires:

(a) convict the defendant;

(b) make an order on the defendant;

(c) dismiss the information.

115 Conduct of summary proceeding

(1) The defendant or a lawyer representing the defendant may address the court after all the evidence for the informant and the evidence (if any) for the defendant and for the informant in reply has been given.

(2) The informant or a lawyer representing the informant may make a closing address.

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Part 3.7 Service and pleading by post for certain offences

116A Definitions for pt 3.7

(1) In this part:

defendant means a person who has been properly served with a summons in accordance with section 116B.

law in force in the ACT includes a statute of the Australian National University about parking or traffic.

(2) For this part (other than section 116B (2)), a ***notice to defendant form***, ***notice of intention to defend form*** and ***plea of guilty form*** includes a copy of the form printed on the back of a copy of a summons.

116AA Meaning of *prescribed offence* for pt 3.7

(1) For this part, an offence against a law in force in the ACT is a ***prescribed offence*** in relation to a person if—

(a) for an offence against the road transport legislation—the maximum fine that can be imposed on the person for the offence is 30 penalty units; or

(b) for any other offence—the maximum fine that can be imposed on the person for the offence is 10 penalty units.

(2) In subsection (1):

road transport legislation means the following:

(a) the *Road Transport (Dimensions and Mass) Act 1990*;

(b) the *Road Transport (Driver Licensing) Act 1990*;

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(c) the *Road Transport (General) Act 1999*;

(d) the *Road Transport (Public Passenger Services) Act 2001*;

(e) the *Road Transport (Safety and Traffic Management) Act 1999*;

(f) the *Road Transport (Vehicle Registration) Act 1999*;

(g) any other Act or any regulation prescribed by regulation.

Note 1 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

Note 2 A reference to an Act includes a reference to a provision of an Act, and a reference to a subordinate law includes a reference to a provision of a subordinate law (see Legislation Act, s 7 and s 8).

116B Service of summons for prescribed offence

(1) A summons for a person in relation to a prescribed offence may be served on the person—

(a) by giving 2 copies of the summons to the person; or

(b) by sending 2 copies of the summons by prepaid post, addressed to the person, at the person's last-known home or business address; or

(c) by leaving 2 copies of the summons at the person's last-known home or business address with someone who appears to be at least 16 years old and to live or be employed at the address.

(2) One copy of a summons in relation to a prescribed offence served in accordance with this section must have the notice to defendant form printed on the back of it, and the other copy of that summons so served must have the notice of intention to defend form and the plea of guilty form printed on the back of it.

(3) Service of a summons on a person in relation to a prescribed offence in a way mentioned in subsection (1) (a) or (c) must be made not

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less than 14 days before the day the person is required by the summons to appear before the court.

(4) If a summons in relation to a prescribed offence is served in accordance with this section in the way mentioned in subsection (1) (b), the 2 copies of the summons must be sent by post not less than 21 days before the day when the person to whom it is directed is required by the summons to appear before the court.

Note If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

116BA Giving of notice by registrar

If the registrar is required to give notice to a person under this part, the notice may be given by sending the notice by prepaid post, addressed to the person, at the person's last-known home or business address.

116C Proof of service

(1) Service of a summons or notice for this part may be proved by the oath of the person who served it, by affidavit or otherwise.

(2) For this part, if—

(a) a summons has been served in accordance with section 116B; and

(b) a copy of the summons is returned to the registrar with the notice of intention to defend form or the plea of guilty form completed;

the defendant is taken, unless the contrary is proved, to have completed and signed the form so completed and to have returned the form to the registrar.

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(3) The plea of guilty form must be signed in the presence of 1 of the following people:

(a) the registrar;

(b) a lawyer;

(c) a justice of the peace;

(d) a person prescribed by regulation or rule.

116D Pleas to prescribed offence

A defendant may—

(a) without prejudice to any other means of pleading guilty, enter a plea of guilty by completing the plea of guilty form and returning the form, whether by post or otherwise, to the registrar; or

(b) give notice of his or her intention to defend by completing the notice of intention to defend form and returning the form, whether by post or otherwise, to the registrar.

116E Procedure if plea of guilty entered

(1) If—

(a) a defendant enters a plea of guilty in accordance with section 116D; and

(b) the defendant—

(i) does not appear at the hearing; or

(ii) appears but does not withdraw his or her plea of guilty; and

(c) the court accepts the plea of guilty;

the court must record a plea of guilty and decide the proceeding accordingly.

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(2) The court must, in deciding a proceeding under subsection (1), have regard to the matters (if any) drawn to the attention of the court in the plea of guilty and must give to the matters the weight that to the court considers proper.

(3) If the court declines to accept a plea of guilty entered in accordance with section 116D—

(a) the court must adjourn the hearing and fix a time and place for the hearing of the proceeding; and

(b) if the defendant is not before the court—the registrar must give to the defendant notice of the time and place fixed.

(4) If a defendant does not appear at the time and place fixed under subsection (3), the court may hear and decide the proceeding in the absence of the defendant.

116F Procedure if notice of intention to defend given

If a defendant returns the notice of intention to defend form to the registrar before the day when the defendant is required by the summons to appear before the court—

(a) the court must fix a time and place for the hearing of the proceeding; and

(b) the registrar must give to the defendant notice of the time and place fixed.

116FA Procedure if defendant pleads not guilty

If the defendant appears before the court at the time and place at which the defendant is required by the summons to appear and pleads not guilty, the court must adjourn the hearing, fix a time and place for the hearing of the proceeding and inform the defendant of the time and place fixed.

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116G Procedure if defendant does not plead

If—

(a) a summons has been served in accordance with section 116B; and

(b) either—

(i) the defendant does not enter a plea of guilty in accordance with section 116D or return the notice of intention to defend form to the registrar before the day when the defendant is required by the summons to appear before the court, and does not appear before the court at the time and place specified in the summons; or

(ii) the defendant does not appear before the court at the time and place specified in the notice given to the defendant in accordance with section 116F or fixed by the court in accordance with section 116FA; and

(c) the court is satisfied—

(i) that the matters alleged in the summons are reasonably sufficient to inform the defendant of the offence alleged against the defendant; and

(ii) that the matters alleged in the summons constitute the offence charged in the summons;

the court may convict the defendant of the offence charged in the summons.

116H Restricted penalties under pt 3.7

(1) Subject to subsection (3), if—

(a) a defendant is convicted under this part of an offence against a law mentioned in a paragraph of section 116AA (1); and

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(b) at the time that the defendant is sentenced, the defendant is not before the court or is not represented before the court by a lawyer;

the only penalty that the court may impose is a fine of an amount not exceeding the amount mentioned in that paragraph.

(2) If—

(a) the court convicts a defendant of an offence against a law mentioned in a paragraph of section 116AA (1); and

(b) the law provides in effect that a penalty other than a fine may be imposed on the defendant; and

(c) when the defendant is sentenced, the defendant is not before the court or is not represented before the court by a lawyer; and

(d) the court considers that a penalty other than a fine may be appropriate;

the court must adjourn the hearing and fix a time and place for sentence.

(3) The registrar must give the defendant notice of the time and place fixed.

(4) If a defendant convicted of an offence against a law mentioned in a paragraph of section 116AA (1) does not appear at the time and place fixed under subsection (2), the court, in the absence of the defendant, may impose on the defendant any penalty that is applicable under that law.

116I Consequences of conviction in absence of defendant

If a defendant is, in his or her absence, convicted of an offence, the registrar must give to the defendant written notice of—

(a) the conviction and order of the court; and

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(b) the penalty (if any) imposed by the court, and the way in which and the time by which the penalty is required to be discharged; and

(c) unless the proceeding is decided in accordance with section 116E (1), the defendant's right to apply for the setting aside of the conviction or order in accordance with the rules.

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Part 3.8 Infringement notices for certain offences

Division 3.8.1 Preliminary

117 Definitions for pt 3.8

In this part:

administering authority, for an infringement notice offence, means the entity that, under the regulations, is the administering authority for the offence.

another jurisdiction means a jurisdiction other than the ACT.

authorised person—see section 134A (3).

date of service, of an infringement notice or reminder notice that has been, or is to be, served on a person, means the date the notice is served on the person.

driver, of a vehicle, means the person who is driving the vehicle.

home address, of a person, means the address of the place where the person usually lives.

illegal user declaration—see section 131D.

infringement notice means a notice under section 120 (Service of infringement notices).

infringement notice offence means an offence declared under the regulations to be an offence to which this part applies.

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infringement notice penalty, for a person for an infringement notice offence, means—

(a) the amount prescribed by regulation as the penalty payable by the person for the offence under an infringement notice for the offence; or

(b) if a reminder notice has also been served on the person for the offence—the total of the amount mentioned in paragraph (a) and the amount prescribed by regulation as the amount payable by the person for the cost of serving the reminder notice.

known offender declaration—see section 131E.

registered, for a vehicle, means registered under the *Road Transport (Vehicle Registration) Act 1999*.

reminder notice means a notice under section 129 (Reminder notices).

responsible person, for a vehicle—see the *Road Transport (General) Act 1999*, section 10 and section 11.

sold vehicle declaration—see section 131F.

unknown offender declaration—see section 131G.

vehicle—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.

vehicle-related offence means an infringement notice offence that—

(a) involves a vehicle; and

(b) is declared by regulation to be an offence to which division 8.2A applies.

118 Purpose and effect of pt 3.8

(1) The purpose of this part is to create a system of infringement notices for certain offences as an alternative to prosecution.

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(2) This part does not—

(a) require an infringement or reminder notice to be served on a person; or

(b) affect the liability of a person to be prosecuted for an offence if—

(i) an infringement or reminder notice is not served on the person for the offence; or

(ii) the person does not comply with an infringement or reminder notice served on the person for the offence; or

(iii) an infringement notice served on the person for the offence is withdrawn; or

(c) prevent the service of 2 or more infringement notices on a person for an offence; or

(d) limit or otherwise affect the penalty that may be imposed by a court on a person for an offence.

119 Regulations about infringement notice offences

(1) A regulation may prescribe an offence for the definition of ***infringement notice offence*** in section 117 by—

(a) stating the offence; or

(b) referring to the provision creating the offence; or

(c) providing that all offences, or all offences except for stated offences, against an Act or subordinate law are infringement notice offences.

(2) Subsection (1) does not limit the way that a regulation may prescribe an offence for that definition.

(3) A regulation may, for the definition of infringement notice penalty in section 117, prescribe—

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(a) an amount as the penalty payable by anyone for an offence if it is dealt with under this part; or

(b) different amounts as the penalties payable for different offences if they are dealt with under this part; or

(c) different amounts as the penalties payable for the same kind of offence committed by different people or in different circumstances if the offence is dealt with under this part.

(4) However, an infringement notice penalty prescribed for a person for an offence must not exceed the maximum fine that could be imposed by a court on the person for the offence.

(5) Subsection (3) does not limit the way that a regulation may prescribe an amount for that definition.

Division 3.8.2 Infringement and reminder notices

120 Service of infringement notices

(1) If an authorised person believes, on reasonable grounds, that a person has committed an infringement notice offence, the authorised person may serve a notice (an ***infringement notice***) on the person for the offence.

(2) To remove any doubt, an authorised person may not serve an infringement notice on a person under this section for an offence after the end of the time within which a prosecution may be brought for the offence.

(3) This section does not prevent an infringement notice for a vehicle-related offence being served on a person under section 131B (Service of infringement notice on responsible person for vehicle).

121 Contents of infringement notices

(1) An infringement notice served on a person by an authorised person for an infringement notice offence must—

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(a) be identified by a unique number; and

(b) state the date of service of the notice; and

(c) state—

(i) the full name, or surname and initials, and address of the person on whom the notice is served; or

(ii) the particulars that are, under the regulations, identifying particulars for the person; and

(d) give brief details of the offence, including the Act or subordinate law, and the provision of it, contravened by the person, and—

(i) if the offence took place over a period—the period, or approximate period, when the offence was committed; or

(ii) in any other case—the place where the offence was committed and the date and approximate time of the offence; and

(e) state the infringement notice penalty payable by the person for the offence; and

(f) contain the information required by section 122 (Additional information in infringement notices); and

(g) identify the authorised person in accordance with the regulations; and

(h) include any other information required by regulation and any additional information that the administering authority considers appropriate.

(2) A regulation may provide that subsection (1) (c) does not apply to an infringement notice.

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122 Additional information in infringement notices

(1) The infringement notice must also tell the person on whom it is served that—

(a) the person may pay the infringement notice penalty for the offence or dispute liability for the offence within 28 days after the day when the notice is served on the person (the ***date of service*** of the notice); and

(b) the person may apply to the administering authority for additional time in which to pay the penalty or dispute liability for the offence; and

(c) the notice may be withdrawn before or after the penalty is paid; and

(d) if the person pays the penalty within the 28 days (or any additional time allowed by the administering authority), then, unless the infringement notice is withdrawn and any penalty refunded—

(i) any liability of the person for the offence is discharged; and

(ii) the person will not be prosecuted in court for the offence; and

(iii) the person will not be taken to have been convicted of the offence; and

(e) if the person wishes to dispute liability for the offence, the issue may be referred to the Magistrates Court; and

(f) if the Magistrates Court finds against the person or the person is prosecuted in court for the offence, the person may be convicted of the offence and ordered to pay a penalty and costs, and be subject to other court orders; and

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(g) if the person does not pay the infringement notice penalty, or disputes liability for the offence, within the 28 days (or any additional time allowed by the administering authority), a reminder notice may be served on the person for the offence or the person may be prosecuted in court for the offence; and

(h) if a reminder notice is served on the person, the infringement notice penalty is increased by the amount payable by the person for the cost of serving the reminder notice.

(2) In addition, the infringement notice must—

(a) explain how the person may pay the infringement notice penalty or dispute liability for the offence; and

(b) explain how the person may apply for additional time to pay the infringement notice penalty or dispute liability for the offence.

123 Time for payment of infringement notice penalty

The infringement notice penalty payable by a person under an infringement notice or reminder notice is payable—

(a) within 28 days after the date of service of the notice; or

(b) if the person applies to the administering authority within the 28 days for additional time to pay and the additional time is allowed—within the additional time allowed by the administering authority; or

(c) if the person applies to the administering authority within the 28 days for additional time to pay and the application is refused—within 7 days after the day the person is told of the refusal or 28 days after the date of service of the notice, whichever is later.

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124 Extension of time to pay penalty

(1) The person on whom an infringement notice or reminder notice is served may apply, in writing, to the administering authority, within 28 days after the date of service of the notice, for a stated additional time (of not longer than 6 months) in which to pay the infringement notice penalty.

(2) The administering authority must—

(a) allow or refuse to allow the additional time; and

(b) tell the person in writing of the decision and, if the decision is a refusal, the reasons for it.

125 Effect of payment of infringement notice penalty

(1) This section applies if—

(a) an infringement notice has been served on a person for an infringement notice offence; and

(b) the person pays the infringement notice penalty for the offence in accordance with this part; and

(c) when the payment is made, the infringement notice had not been withdrawn and an information had not been laid in the Magistrates Court against the person for the offence.

Note Section 127 (Withdrawal of infringement notice) provides for the withdrawal at any time of an infringement notice that has been served on a person. If s 125 applied to the infringement notice offence, it ceases to apply, and is taken never to have applied, on the withdrawal of the notice (see s 127 (4)).

(2) If this section applies—

(a) any liability of the person for the offence is discharged; and

(b) the person must not be prosecuted in a court for the offence; and

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(c) the person is not taken to have been convicted of the offence.

(3) If 2 or more infringement notices were served on the person for the offence, then, unless all the infringement notices have been withdrawn, subsection (2) applies to the person in relation to the offence if the person pays, in accordance with this part, the infringement notice penalty in relation to any of the notices (together with any costs and disbursements payable under this part in relation to the notice).

126 Application for withdrawal of infringement notice

(1) The person on whom an infringement notice for an infringement notice offence is served may apply to the administering authority, in writing, for the withdrawal of the notice within 28 days after the day when the infringement notice, or a reminder notice for the offence, is served on the person (or any additional time allowed by the administering authority).

(2) The administering authority must—

(a) withdraw the notice or refuse to withdraw the notice; and

(b) tell the person in writing of the decision and, if the decision is a refusal, the reasons for it.

127 Withdrawal of infringement notice

(1) This section applies to an infringement notice that has been served on a person for an infringement notice offence.

(2) The administering authority may, by notice served on the person, withdraw the infringement notice, whether or not—

(a) the person has made an application for the withdrawal of the infringement notice; or

(b) the infringement notice penalty (or part of it) has been paid for the offence; or

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(c) the person has disputed liability for the infringement notice offence.

(3) The notice must—

(a) include the number of the infringement notice and the date of service of the infringement notice; and

(b) tell the person that the infringement notice is withdrawn and, in general terms, about subsection (4).

(4) On service of the notice—

(a) this part ceases to apply to the infringement notice; and

(b) if the infringement notice penalty (or part of it) has been paid—the amount paid must be repaid by the administering authority; and

(c) if section 125 (Effect of payment of infringement notice penalty) applies to the offence—the section ceases to apply, and is taken never to have applied, to the offence; and

(d) a proceeding for the offence may be taken in a court against anyone (including the person) as if the infringement notice had not been served on the person.

128 Guidelines about withdrawal of infringement notices

(1) The Minister may, in writing, issue guidelines about the exercise of an administering authority's functions under section 126 (Application for withdrawal of infringement notice), section 127 (Withdrawal of infringement notice) or section 133 (Extension of time to dispute liability).

(2) The administering authority for an infringement notice offence must comply with any guidelines applying to the offence.

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(3) A guideline is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

129 Reminder notices

An authorised person may serve a notice (a ***reminder notice***) on a person if—

(a) an infringement notice has been served on the person for an infringement notice offence; and

(b) the infringement notice has not been withdrawn; and

(c) the infringement notice penalty has not been paid to the administering authority within the time for payment under this part; and

(d) written notice disputing liability has not been given to the administering authority in accordance with this part; and

(e) a reminder notice has not previously been served on the person for the offence.

130 Contents of reminder notices

A reminder notice served on a person by an authorised person for an infringement notice offence must—

(a) be identified by a unique number; and

(b) include the following information:

(i) the Act or subordinate law, and the provision of it, contravened by the person;

(ii) the number of the infringement notice served on the person for the offence;

(iii) the date of service of the infringement notice; and

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(c) state the date of service of the reminder notice; and

(d) state the infringement notice penalty that is now payable by the person for the offence; and

(e) contain the information required by section 131 (Additional information in reminder notices); and

(f) identify the authorised person in accordance with the regulations; and

(g) include any other information required by regulation and any additional information that the administering authority considers appropriate.

131 Additional information in reminder notices

(1) The reminder notice must also tell the person on whom it is served that—

(a) the infringement notice penalty for the offence has not been paid; and

(b) the infringement notice has not been withdrawn; and

(c) written notice disputing liability has not been received by the administering authority from the person for the offence; and

(d) the infringement notice penalty for the offence has been increased by the amount payable by the person for the cost of serving the reminder notice; and

(e) the person may pay the infringement notice penalty that is now payable by the person for the offence or dispute liability for the offence within 28 days after the day when the reminder notice is served on the person (the ***date of service*** of the notice); and

(f) the person may apply to the administering authority for additional time in which to pay the penalty or dispute liability for the offence; and

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(g) the infringement notice may be withdrawn before or after the penalty is paid; and

(h) if the person pays the penalty within the 28 days (or any additional time allowed by the administering authority), then, unless the infringement notice is withdrawn and any penalty refunded—

(i) any liability of the person for the offence is discharged; and

(ii) the person will not be prosecuted in court for the offence; and

(iii) the person will not be taken to have been convicted of the offence; and

(i) if the person wishes to dispute liability for the offence, the issue may be referred to the Magistrates Court; and

(j) if the Magistrates Court finds against the person or the person is prosecuted in court for the offence, the person may be convicted of the offence and ordered to pay a penalty and costs, and be subject to other court orders; and

(k) if the person does not pay the infringement notice penalty, or dispute liability for the offence, within the 28 days (or any additional time allowed by the administering authority), the person may be prosecuted in court for the offence.

(2) In addition, the reminder notice must—

(a) explain how the person may pay the infringement notice penalty or dispute liability for the offence; and

(b) explain how the person may apply for additional time to pay the infringement notice penalty or dispute liability for the offence.

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Division 3.8.3 Additional provisions for vehicle-related offences

131A Meaning of *infringement notice*

In this division:

infringement notice means an infringement notice for a vehicle-related offence.

131B Service of infringement notice on responsible person for vehicles

(1) This section applies if an authorised person believes, on reasonable grounds, that a vehicle-related offence has been committed.

(2) The authorised person may serve an infringement notice for the offence on—

(a) the responsible person for the vehicle at the time of the offence; or

(b) if there is more than 1 responsible person for the vehicle at that time—each or any of them.

Note 1 For how documents may be served, see the Legislation Act, pt 19.5

Note 2 Subsections (3) and (4) provide additional ways for serving infringement notices (see Legislation Act, s 251 (1)).

(3) If the infringement notice is to be served on a person under this section by post and the vehicle is registered under a law of another jurisdiction corresponding to the *Road Transport (Vehicle Registration) Act 1999*, the notice may be served by sending it by prepaid post, addressed to the person, to the latest address of the person in the registration records kept under that law.

(4) An infringement notice for a vehicle-related offence may be served by securely placing or attaching the notice, addressed to the

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responsible person (without further description), on or to the vehicle in a conspicuous position.

(5) If an infringement notice is served in the way mentioned in subsection (4), it is taken to have been served, on the day that it is placed on or attached to the vehicle, on—

(a) the responsible person for the vehicle; or

(b) if there is more than 1 responsible person for the vehicle at that time—each of them.

(6) A person must not remove, deface or interfere with an infringement notice placed on, or attached to, a vehicle unless the person is the driver of the vehicle or the responsible person (or a responsible person) for the vehicle.

Maximum penalty: 20 penalty units.

(7) A regulation may provide that an infringement notice for a vehicle-related offence may only be served on a person under this section within the prescribed period after the day the offence was committed.

(8) To remove any doubt, an authorised person may not serve an infringement notice on a person under this section for an offence after—

(a) if a regulation under subsection (7) prescribes a period for the offence—the end of the prescribed period; or

(b) in any other case—the end of the time within which a prosecution may be brought against the person for the offence.

(9) This section does not prevent an infringement notice for a vehicle-related offence being served on a person under section 120 (Service of infringement notices).

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131C Liability for vehicle-related offences

(1) If an infringement notice for a vehicle-related offence is served on a person under section 131B, the person is liable for the offence, and may be convicted of and punished for the offence, even though the person who actually committed the offence (the ***actual offender***) may have been someone else.

(2) If the actual offender is not the responsible person (or a responsible person) for the vehicle at the time of the offence, subsection (1) does not affect the liability of the actual offender, but—

(a) an additional penalty for the offence may not be recovered from or imposed on the actual offender if an infringement notice penalty for the offence has been paid by, or a penalty has been imposed on, the responsible person (or a responsible person) for the vehicle at that time; and

(b) an additional penalty for the offence may not be recovered from or imposed on the responsible person (or a responsible person) for the vehicle at that time if an infringement notice penalty for the offence has been paid by, or a penalty has been imposed on, the actual offender.

(3) However, in a prosecution against a responsible person for a vehicle-related offence, it is a defence if the responsible person establishes—

(a) that the vehicle was stolen, or illegally taken or used, at the time of the offence; or

(b) that the person made and gave to the administering authority a known offender declaration in accordance with section 131E (Known offender declaration) for the offence; or

(c) that the vehicle (or all of the person's interest in the vehicle) had been sold or disposed of by the person before the time of

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the offence, and that at that time the person did not have an interest in the vehicle; or

(d) that the person—

(i) was not the driver of the vehicle at the time of the offence; and

(ii) does not know, and could not with reasonable diligence have found out, the name and address of the driver of the vehicle at that time.

131D Illegal user declarations

(1) This section applies if—

(a) an infringement notice for a vehicle-related offence is served on a person under section 131B (Service of infringement notice on responsible person for vehicles); and

(b) the person makes a statutory declaration (an ***illegal user declaration***) stating that the vehicle was stolen, or illegally taken or used, at the time of the offence and providing all relevant facts supporting that statement, including details of where and when the matter was reported to the police; and

(c) the person gives the illegal user declaration to the administering authority within 28 days after the day when the infringement notice, or a reminder notice for the offence, is served on the person (or any additional time allowed by the administering authority).

(2) An infringement notice for the offence may be served under section 120 (Service of infringement notices) on the person (if any) stated in the illegal user declaration as the person (the ***named offender***) who was illegally in charge of the vehicle at the time of the offence.

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(3) If a document (including an infringement notice or reminder notice) is to be served on the named offender under this part by post in relation to the offence, the document may be addressed to the named offender at his or her home or business address stated in the illegal user declaration.

(4) Section 131C (Liability for vehicle-related offences) and section 131E (Known offender declarations) apply as if the named offender were the responsible person for the vehicle at the time of the offence and the infringement notice had been served on the named offender under section 131B.

(5) However, a proceeding for the offence may be brought in a court against the named offender only if a copy of the illegal user declaration has been served on the named offender by an authorised person.

(6) In a proceeding against the named offender for the offence, the illegal user declaration is evidence that the named offender was the driver of the vehicle at the time of the offence.

131E Known offender declarations

(1) This section applies if—

(a) an infringement notice for a vehicle-related offence is served on a person under section 131B (Service of infringement notice on responsible person for vehicles); and

(b) the person makes a statutory declaration (a ***known offender declaration***) stating—

(i) if the person is an individual—

(A) that the person was not the driver of the vehicle at the time of the offence and did not commit the offence; and

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(B) the name and home or business address of the person (the ***named offender***) who was the driver of the vehicle at that time; and

(C) all relevant facts supporting those statements; or

(ii) if the person is a corporation—the name and home or business address of the person (also the ***named offender***) who was the driver of the vehicle at the time of the offence and all relevant facts supporting that statement; or

(iii) for a vehicle-related offence under an Act declared by regulation to be an Act to which this subparagraph applies—the person saw another named person (also the ***named offender***) do the act the subject of the offence and stating—

(A) the address of the named offender; and

(B) if the person does not know the other person's address—the reasons why the person does not know the address; and

(c) the person gives the known offender declaration to the administering authority within 28 days after the day when the infringement notice, or a reminder notice for the offence, is served on the person (or any additional time allowed by the administering authority).

(2) An infringement notice for the offence may be served under section 120 (Service of infringement notices) on the named offender.

(3) If a document (including an infringement notice or reminder notice) is to be served on the named offender under this part by post in relation to the offence, the document may be addressed to the named offender at his or her home or business address stated in the known offender declaration.

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(4) Section 131C (Liability for vehicle-related offences), this section and section 131F apply as if the named offender were the responsible person for the vehicle at the time of the offence and the infringement notice had been served on the named offender under section 131B.

(5) However, a proceeding for the offence may be brought in a court against the named offender only if a copy of the known offender declaration has been served on the named offender by an authorised person.

(6) In a proceeding against the named offender for the offence, the known offender declaration is evidence that the named offender was the offender at the time of the offence.

131F Sold vehicle declarations

(1) This section applies if—

(a) an infringement notice for a vehicle-related offence is served on a person under section 131B (Service of infringement notice on responsible person for vehicles); and

(b) the person makes a statutory declaration (a ***sold vehicle declaration***) stating that the vehicle (or all of the person's interest in the vehicle) had been sold or otherwise disposed of by the person before the time of the offence and providing all relevant facts supporting that statement, including—

(i) the name and home or business address of the person (the ***buyer***) to whom the vehicle (or the person's interest in the vehicle) was sold or disposed of by the person; and

(ii) the date and, if relevant to the offence, time of the sale or disposal; and

(iii) if an agent made the sale or disposal for the person—the name and home or business address of the agent; and

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(iv) whether the person had any interest in the vehicle at the time of the offence; and

(c) the person gives the sold vehicle declaration to the administering authority within 28 days after the day when the infringement notice, or a reminder notice for the offence, is served on the person (or any additional time allowed by the administering authority).

(2) An infringement notice for the offence may be served under section 120 (Service of infringement notices) on the buyer.

(3) If a document (including an infringement notice or reminder notice) is to be served on the buyer under this part by post in relation to the offence, the document may be addressed to the buyer at his or her home or business address stated in the sold vehicle declaration.

(4) Section 131C (Liability for vehicle-related offences), section 131E and this section apply as if the buyer were a responsible person for the vehicle at the time of the offence and the infringement notice had been served on the buyer under section 131B.

(5) However, a proceeding for the offence may be brought in a court against the buyer only if a copy of the sold vehicle declaration has been served on the buyer by an authorised person.

(6) In a proceeding against the buyer for the offence, the sold vehicle declaration is evidence that the buyer was the responsible person for the vehicle at the time of the offence.

131G Unknown offender declarations

If an infringement notice for a vehicle-related offence is served on a person under section 131B (Service of infringement notice on responsible person for vehicles), the person may—

(a) make a statutory declaration (an ***unknown offender declaration***) stating—

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(i) that—

(A) if the person is an individual—the person was not the driver of the vehicle at the time of the offence and did not commit the offence; or

(B) if the person is a corporation—the vehicle was not being used for the corporation's purposes at the time of the offence; and

(ii) that the person has made inquiries to find out who was—

(A) the driver of the vehicle at that time; or

(B) for a vehicle-related offence under an Act declared by regulation to be an Act to which this subparagraph applies—the offender was at that time; and

(iii) that the person does not know, and has not been able to find out, who was the driver of the vehicle, or the offender, at that time; and

(iv) the nature and extent of the inquiries made by the person; and

(b) give the unknown offender declaration to the administering authority within 28 days after the day when the infringement notice, or a reminder notice for the offence, is served on the person (or any additional time allowed by the administering authority).

Division 3.8.4 Disputing liability for infringement notices

132 Disputing liability for infringement notice offence

(1) A person on whom an infringement notice or reminder notice has been served for an infringement notice offence may dispute liability

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for the offence by written notice given to the administering authority.

(2) The notice must set out the grounds on which the person relies.

(3) The notice must be given to the administering authority—

(a) within 28 days after the date of service of the infringement notice or reminder notice; or

(b) if the person applies to the administering authority within the 28 days for additional time to dispute liability for the offence and the additional time is allowed—within the additional time allowed by the administering authority; or

(c) if the person applies to the administering authority within the 28 days for additional time to dispute liability for the offence and the application is refused—within 7 days after the day the person is told of the refusal or 28 days after the date of service of the infringement notice or reminder notice, whichever is later.

133 Extension of time to dispute liability

(1) The person on whom an infringement notice or reminder notice is served may apply, in writing, to the administering authority, within 28 days after the date of service of the notice, for a stated additional time in which to dispute liability for the offence.

(2) The administering authority must—

(a) allow or refuse to allow the additional time; and

(b) tell the person in writing of the decision and, if the decision is a refusal, the reasons for it.

134 Procedure if liability disputed

(1) This section applies if a person disputes liability for an infringement notice offence by giving the administering authority a notice in

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accordance with section 132 (Disputing liability for infringement notice offence).

(2) The administering authority may lay an information in the Magistrates Court against the person for the offence within 60 days after being given the notice.

(3) The administering authority must discontinue a proceeding brought against the person for the offence if, before the hearing of the proceeding, the person pays the total of—

(a) the infringement notice penalty; and

(b) the costs (if any) prescribed by regulation for beginning the proceeding; and

(c) the disbursements (if any) incurred by the administering authority up to the day payment is made.

(4) If subsection (3) applies, section 125 (Effect of payment of infringement notice penalty) also applies to the person in relation to the offence, even though the person paid the infringement notice penalty for the offence after an information had been laid in the Magistrates Court against the person for the offence.

(5) If the administering authority does not lay an information in the Magistrates Court against the person for the offence within 60 days after being given the notice, the administering authority must—

(a) tell the person, in writing, that no further action will be taken against the person for the offence; and

(b) take no further action against the person for the offence.

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(6) To remove any doubt, subsection (2) does not permit the administering authority to lay an information against a person for an offence after the end of the time within which, apart from this section, a prosecution may be brought against the person for the offence.

Note For the time within which a prosecution must be begun, see the Legislation Act, s 192.

Division 3.8.5 Infringement notices—other provisions

134A Authorised people for infringement notice offences

(1) The administering authority for an infringement notice offence may appoint a person to be an authorised person to serve infringement notices or reminder notices.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

(2) A regulation may prescribe a person to be an authorised person for the service of infringement notices or reminder notices.

(3) In this part:

authorised person means—

(a) for an infringement notice for an infringement notice offence—

(i) the administering authority; or

(ii) a person who is appointed under this section by the administering authority to serve an infringement notice for the offence; or

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(iii) anyone else who, under the regulations, may serve an infringement notice for the offence; or

(b) for a reminder notice for an infringement notice offence—

(i) the administering authority; or

(ii) a person who is appointed under this section by the administering authority to serve a reminder notice for the offence; or

(iii) anyone else who, under the regulations, may serve a reminder notice for the offence.

135 Delegation of administering authority's functions

(1) The administering authority for an infringement notice offence may delegate the administering authority's functions under this part to an authorised person or a person prescribed by regulation.

(2) A person prescribed by regulation for subsection (1) may delegate the functions delegated to the person under that subsection to anyone else.

Note For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

136 Evidentiary certificates

(1) This section applies to a proceeding for an infringement notice offence.

(2) A certificate that appears to be signed by or on behalf of the administering authority, and states any matter relevant to anything done or not done under this part in relation to the offence, is evidence of the matter.

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(3) Without limiting subsection (2), a certificate given under that subsection may state any of the following:

(a) a stated infringement notice or reminder notice was served by a stated authorised person in a stated way on a stated person on a stated date for a stated infringement notice offence;

(b) the administering authority did not allow additional time, or allowed stated additional time, for payment of the infringement notice penalty or to dispute liability for the offence;

(c) the infringement notice penalty was not paid within the time in which it was required to be paid under this part;

(d) the infringement notice has not been withdrawn or was withdrawn on a stated date;

(e) a stated address was, on a stated date, the latest business, home or email address, or fax number, of a stated person recorded in a register or other record kept by the administering authority;

(f) an infringement notice penalty has not been paid by, or a penalty has not been imposed on, a stated person or anyone for the offence.

(4) A court must accept a certificate given under this section as proof of the matters stated in it if there is no evidence to the contrary.

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Part 3.9 Enforcement of criminal decisions

Division 3.9.1 Enforcement of criminal decisions—general

141 Minute of decision and notice to defendant

(1) If the court convicts or makes an order against a defendant—

(a) a minute or memorandum of the conviction or order must be made and signed by the magistrate exercising the jurisdiction of the court; and

(b) the defendant must be notified in writing of the conviction or order.

(2) A minute or memorandum under subsection (1) (a) must specify the amount of any levy imposed under the *Victims of Crime (Financial Assistance) Act 1983*, part 5.

(3) Failure to comply with subsection (1) does not invalidate a conviction or order or the enforcement of a conviction or order.

(4) The minute must not form any part of the warrant of commitment or of execution.

(5) A document purporting to be a copy of the minute or memorandum signed by the registrar is prima facie evidence in all courts of law of the making of the conviction or order.

142 Formal convictions and orders

(1) The conviction or order must, if required, be drawn up by the court in proper form and be filed by the registrar in the court's records.

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(2) It is not necessary for a court formally to draw up a conviction or order or any other record of a decision, unless it is demanded by a party to the proceeding for the purpose of an appeal against the decision, or is required for the purpose of a return to a writ of habeas corpus or other writ from the Supreme Court.

143 Consequences if information dismissed

(1) The court must make an order of dismissal if the court dismisses an information.

(2) The court must give the defendant a certificate of dismissal signed by the adjudicating magistrate or the registrar if the defendant applies for it.

(3) If a certificate of dismissal is produced to a court—

(a) the court must accept it as proof of the matters stated in it if there is no evidence to the contrary; and

(b) it is a bar to any other information or proceeding in any court (other than an appeal) for the same matter against the same party.

144 Copies of informations and other documents

(1) On application, the registrar must give the applicant a copy of—

(a) an information; or

(c) a minute or memorandum of a conviction or order; or

(d) a formal conviction or order.

(2) The registrar may refuse an application under subsection (1) if—

(a) the applicant is not a party to the relevant proceeding; and

(b) the registrar or a magistrate is not satisfied that the applicant has a good reason for being given that copy.

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145 Imprisonment in first instance

If the court on a conviction sentences the defendant to a term of imprisonment, it must issue its warrant of commitment accordingly.

Division 3.9.2 Enforcement of fines

146 Definitions for div 3.9.2

In this division:

default notice means a notice in force under section 151 and includes any variation under section 152.

fine means—

(a) a financial penalty imposed by a court in relation to an offence; or

(b) a fee or charge payable to the Territory that is imposed by a court in a proceeding for an offence; or

(c) costs payable to the Territory under a court order in a proceeding for an offence; or

(d) a levy imposed under the *Victims of Crime (Financial Assistance) Act 1983*; or

(e) an amount payable to the territory under an order for reparation under the Crimes Act, section 350.

fine defaulter means a person to whom a default notice has been given who subsequently defaults in payment of the relevant outstanding fine.

government agency means—

(a) an administrative unit; or

(b) ACTEW Corporation Limited; or

(c) a territory entity prescribed by regulation.

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outstanding fine, in relation to a person, means the total of—

(a) the whole or any part of a fine that the person is liable to pay; and

(b) the whole or any part of an administrative fee that the person is liable to pay in relation to the fine.

penalty notice means a notice in force under section 149, and includes any variation under section 152.

territory entity—see the *Auditor-General Act 1996*, dictionary.

147 Payment of fine

A fine is payable in accordance with this division to the registrar.

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147A Notice of address etc

(1) A person on whom a fine is imposed must not, without reasonable excuse, fail to give to the registrar particulars of his or her address within 7 days after the day when the fine is imposed.

Maximum penalty: 5 penalty units.

(2) A person who is liable to pay a fine and who changes address before the fine and any relevant administrative fee are paid must not, without reasonable excuse, fail to give to the registrar particulars of the new address within 7 days after changing address.

Maximum penalty: 5 penalty units.

(3) A person who is liable to pay a fine, and any relevant administrative fee, must not, without reasonable excuse, fail to give the registrar evidence of his or her address when required to do so by the registrar.

Maximum penalty: 5 penalty units.

147B Access to particulars of address

(1) For this division, the registrar may, in writing, require—

(a) the commissioner for housing; or

(b) the chief police officer; or

(c) the chief executive (however described) of a government agency;

to give the registrar any particulars held by the person about an address of a specified person who is liable to pay a fine.

(2) A person to whom such a requirement is given must comply with it as far as practicable.

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147C Doubtful service

(1) This section applies if—

(a) a document has been served on a person for this division, other than by personal service; and

(b) the registrar is satisfied that—

(i) the document has not come to the knowledge of the person; or

(ii) doubt exists whether the document has come to the knowledge of the person.

(2) If this section applies, the registrar must not take any further action under this division in relation to the person unless—

(a) the document has been served again on the person in the way the registrar considers appropriate; and

(b) the registrar is satisfied that the document has come to the knowledge of the person.

148 Court may allow time to pay

(1) If the court imposes a fine on a person for an offence, the court—

(a) must allow time for payment, if the summons for the offence was served in accordance with section 116B; or

(b) may allow time for payment, in any other case.

(2) For a fine mentioned in subsection (1) (a), the time allowed by the court must be not less than 14 days from the date of conviction.

(3) In addition to allowing time for the payment of an amount, the court may direct that the person liable to pay the amount give security, to the satisfaction of the person specified by the court, with or without sureties, for the payment of the amount.

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(4) The security mentioned in subsection (3) must be given, and may be enforced, in the way provided by this Act.

149 Penalty notice

(1) If the registrar of the Supreme Court gives to the registrar a certificate of conviction that indicates that a person is liable to pay a fine as a result of a conviction or order made by the Supreme Court, the registrar must give the person a penalty notice about the fine.

(2) If a person is liable to pay a fine as a result of a conviction or order by the court, the notice of the conviction or order required by section 116I or section 141 (1) (b) must contain a penalty notice about the fine.

(3) A penalty notice about a fine must—

(a) specify the amount of the fine and the due date for payment; and

(b) if the fine is payable by instalments—specify the amount of each instalment and the due date for payment; and

(c) contain a statement to the effect that if the fine or any instalment is not paid by the due date the person is liable for the administrative fee under section 150 in addition to the fine; and

(d) contain a statement to the effect that, under section 152, the registrar may, on application, approve an arrangement about the payment of the fine; and

(e) indicate the obligation to notify the registrar of any change of address under section 147A.

(4) If a penalty notice is varied under section 152, the notice must specify particulars of the approved arrangement for payment as so varied.

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150 Default

(1) If a person defaults in payment of a fine to which a penalty notice relates—

(a) the person is liable to pay to the Territory, in addition to the amount of the fine that remains unpaid, the administrative fee determined under the *Court Procedures Act 2004*, part 3 (Court and tribunal fees) for this paragraph; and

(b) the registrar must give a default notice to the person.

(2) If a person to whom a default notice has been given subsequently defaults in payment of the fine, the registrar must give notice of the default to the road transport authority under section 153.

(3) For this division, a person defaults in payment of a fine or any relevant administrative fee if the person fails to pay any part of the amount payable by—

(a) the due date specified in the relevant penalty notice; or

(b) if a default notice has been issued in relation to the amount—the due date specified in the default notice.

151 Default notice

(1) A default notice under section 150 must—

(a) specify the default to which the notice relates; and

(b) indicate that, subject to section 152, the amount of the fine remaining unpaid and the relevant administrative fee are due on the date or dates specified in the notice; and

(c) contain a statement indicating the consequences under section 150 (2) of a default in payment of an amount to which the notice relates; and

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(d) contain a statement to the effect that, under section 152, the registrar may, on application, approve an arrangement about the payment of the fine; and

(e) indicate the obligation to notify the registrar of any change of address under section 147A.

(2) The registrar may specify in a default notice matters about a person's property or financial circumstances that are to be set out in any application by the person for approval of a special arrangement under section 152.

(3) If a default notice is varied under section 152, the notice must specify particulars of the approved arrangement for payment as so varied.

152 Special arrangements

(1) The registrar may, on application, approve in writing an arrangement for—

(a) further time for the payment of all or any part of a fine or administrative fee, or an instalment of such an amount; or

(b) payment of all or any part of a fine or administrative fee by instalments.

(2) An arrangement under subsection (1) (a) may also be made in relation to an amount that is overdue for payment under a previous approved arrangement.

(3) To the extent to which an approval for time to pay all or any part of a fine or instalment is inconsistent with an order of a court, the order has no effect.

(4) An application for an approval must—

(a) be made in writing; and

(b) specify the grounds on which it is made; and

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(c) be lodged with the registrar by the date, or within the period, ascertained in accordance with the current penalty notice, or current default notice, about the fine; and

(d) for an applicant to whom a default notice has been given—contain any particulars requested by the registrar in the notice.

(5) A person committed to prison under section 154D is not entitled to make an application.

(6) If an approval concerns a fine for which a penalty notice or a default notice has been given to a person, the registrar must vary the notice by—

(a) altering the notice in accordance with the approval; or

(b) reissuing the notice, revised in accordance with the approval.

153 Notice for suspension of driver licence etc

(1) The registrar must notify the road transport authority of the name, address and date of birth of each person who, after being given a default notice for a fine, defaults in payment of the outstanding fine.

(2) If notice is given under subsection (1) and the registrar subsequently approves an arrangement under section 152, the registrar must notify the road transport authority of the approval.

(3) If notice has been given under subsection (1) and no later notice has been given under subsection (2), the registrar must notify the road transport authority if—

(a) the outstanding fine is paid; or

(b) the outstanding fine is remitted under section 159; or

(c) the person has completed serving a period of imprisonment under a committal under section 154D; or

(d) the conviction or order that gave rise to the liability to pay the fine is quashed or set aside.

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154 Access to personal information

(1) For the purpose of ensuring the payment of an outstanding fine, the registrar may, in writing, require any of the following people to give the registrar specified particulars of personal information held by the person about the relevant fine defaulter:

(a) the commissioner for housing;

(b) the chief police officer;

(c) the chief executive (however described) of a government agency.

(2) A person to whom a requirement is given must comply with it as far as practicable.

(3) In this section:

personal information means particulars about the financial circumstances or criminal record of a fine defaulter.

154D Committal to prison—fine defaulters

(1) The registrar must, by warrant, commit a fine defaulter to prison if—

(a) the registrar is satisfied that all reasonable action has been taken under this division to secure payment and there is no reasonable likelihood of the outstanding fine being paid; and

(b) the outstanding fine has not been remitted under section 159.

(2) The period for which the fine defaulter is to be committed to prison must be the lesser of—

(a) a period calculated at the rate of 1 day for each $100, or part of $100, of the outstanding fine; and

(b) 6 months.

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(3) Subsection (1) does not apply to a person whose liability to pay the fine is derived from an order under the Crimes Act, section 350.

155 Fine amounts to be paid to registrar

(1) This section applies if—

(a) a person must pay an amount because of a conviction or court order; and

(b) the person pays the amount to a police officer or someone else.

(2) The police officer or other person must immediately pay the amount to the registrar.

156 Execution to stop on payment

(1) This section applies if—

(a) a warrant is issued under section 154D (Committal to prison—fine defaulters) for a fine defaulter; and

(b) the fine defaulter pays the police officer executing the warrant the amounts mentioned in it.

(2) The police officer must stop executing the warrant.

157 Payment of amount to keeper or superintendent

(1) If a person is imprisoned for nonpayment of an outstanding fine, the person may pay, or cause to be paid, to the keeper of the prison or, for a person in relation to whom a warrant under section 313 (Commitment to remand centre) has been issued, the superintendent of the remand centre, and the keeper or superintendent must receive—

(a) the amount mentioned in the warrant of commitment and the keeper or superintendent must discharge the person unless the person is in custody for some other matter; or

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(b) any amount in part satisfaction of the outstanding fine and thereupon the term of imprisonment is reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which the person was committed as the amount so paid bears to the amount for which the person is so liable and the keeper or superintendent must at the end of the term so reduced discharge the person unless the person is in custody for some other matter.

(2) The keeper or superintendent must forthwith pay all amounts received under the subsection (1) to the registrar.

158 Fine satisfied by imprisonment

A person who is committed to prison under a warrant issued under section 154D discharges his or her liability to pay the outstanding fine—

(a) at the rate of $100 for each day or part of a day for which the person is so imprisoned; or

(b) if the person is so committed to prison for 6 months—on the completion of the 6 months.

159 Remission

The Executive may, in writing, remit all or any part of a fine.

160 Conviction or order quashed or set aside

If the conviction or order that gave rise to a person's liability to pay a fine is quashed or set aside, the registrar must, in addition to notifying the road transport authority under section 153 (3) (d)—

(a) refund to the person any amount paid in relation to the fine; and

(b) refund to the person any amount paid in relation to a relevant administrative fee.

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161 Other enforcement provisions not affected

This division shall not be taken to affect the operation of any other law in force in the ACT that provides for the recovery or enforcement of a fine.

Division 3.9.3 Reciprocal enforcement of fines against bodies corporate

166A Definitions for div 3.9.3

In this division:

conviction means a conviction or order entered or made by a court in the exercise of summary jurisdiction in a proceeding for an offence.

fine includes—

(a) a financial penalty, financial forfeiture and financial compensation; and

(b) fees, charges and costs payable by a body corporate under an order made in a proceeding in which a conviction was entered in relation to the body corporate.

reciprocating court means a court declared under section 166B to be a reciprocating court.

relevant officer, in relation to a reciprocating court, means the registrar or other corresponding officer of the court.

State includes a Territory other than the Australian Capital Territory.

territory fine means a fine payable under a conviction of the court.

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166B Declarations relating to reciprocating courts

(1) If a State has laws providing for the enforcement in the State of a territory fine against a body corporate, the Attorney-General may, in writing, declare a court of summary jurisdiction in the State to be a reciprocating court.

(2) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

166C Enforcement of fine

(1) If—

(a) a fine is payable by a body corporate under a conviction of a reciprocating court; and

(b) the registrar receives a written request from the relevant officer of the reciprocating court for the enforcement of the conviction accompanied by—

(i) a copy, certified by the relevant officer to be correct, of the conviction; and

(ii) a certificate signed by the relevant officer stating the amount of the fine that remains unpaid;

the registrar must register the conviction by filing in the court the certified copy of the conviction and noting the date of the registration on the copy.

(2) On the registration of a conviction under subsection (1)—

(a) the conviction is taken, for this part, to be a conviction of the court adjudging payment of a fine by the body corporate in the amount stated as unpaid in the certificate mentioned in subsection (1) (b); and

(b) the registrar must issue a writ of execution for the purpose of recovering the amount mentioned in paragraph (a); and

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(c) subject to this section, this Act and the rules applying to civil proceedings in the Magistrates Court apply in relation to a writ issued under paragraph (b) as if the writ had been issued in relation to a conviction of the court.

(3) If a request is made under this section in relation to a fine payable under a conviction of a reciprocating court and the registrar later receives a notification from the relevant officer of the reciprocating court of payment of an amount in satisfaction in whole or part of the amount of the fine, the registrar must note the particulars of the payment on the certified copy of the conviction filed in the court.

(4) If—

(a) a writ is issued under subsection (2) in relation to a fine; and

(b) before execution, the registrar receives a notification mentioned in subsection (3) in relation to the fine;

the registrar must arrange for the return of the writ.

(5) On the return of the writ, the registrar must—

(a) if the amount of the fine has been paid in full—withdraw the writ; or

(b) if part of the amount of the fine remains unpaid—amend the writ to show the amount still unpaid.

(6) If a writ is amended under subsection (4), the writ must be enforced in relation to the amount of the fine for the time being shown in the writ as unpaid.

(7) If an amount of money is paid to the registrar in satisfaction in whole or in part of a fine payable under a conviction registered under subsection (1), the registrar must remit the amount to the relevant officer of the reciprocating court by which the conviction was entered.

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(8) For this section, a document that purports to have been signed by the relevant officer of a reciprocating court is taken to have been so signed unless the contrary is proved.

166D Effect of enforcement by reciprocating court

An amount received by the registrar from a reciprocating court in satisfaction in whole or in part of a territory fine must be applied by the registrar as if the amount had been paid to the registrar by the body corporate by which the fine was payable in satisfaction in whole or in part of the fine.

166E Registrar to notify payment of territory fine

If—

(a) a conviction of the court under which a fine is payable is registered by the relevant officer of a reciprocating court; and

(b) an amount is received by the registrar in satisfaction in whole or in part of the fine;

the registrar must, as soon as practicable, notify the relevant officer of the amount of that payment.

Division 3.9.4 Enforcement of criminal decisions—other provisions

184 Enforcement of costs against informant

If a court orders an informant in a criminal proceeding to pay costs to a defendant, the order operates as a judgment given or entered in relation to a claim for the payment of money and is enforceable accordingly.

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185 Committal to prison—orders not involving payment of amount

(1) If—

(a) a conviction does not order the payment of any fine or penalty but orders that the defendant be imprisoned for his or her offence; or

(b) an order is not for the payment of an amount but for the doing of some other act and directs that, if the defendant fails to do the act, the defendant be imprisoned and the defendant fails to do the act;

the court or a magistrate may by warrant commit the defendant to prison there to be kept according to the terms of the conviction or order.

(2) In subsection (1) (b):

order does not include an order under the Crimes Act, section 350.

186 Warrant of commitment to prison

(1) A warrant of commitment—

(a) must require the police officer or escort to whom it is directed to take the person named in the warrant to a prison mentioned in the warrant; and

(b) must require the person in charge of the prison to which the person is taken to imprison the person in accordance with the warrant.

(2) A warrant of commitment in which the direction mentioned in subsection (1) (a) is given to all police officers or all escorts—

(a) is taken in that respect to be directed to each police officer, or each escort, respectively; and

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(b) may be executed in that respect by any police officer, or any escort, respectively.

(3) On the arrival at the prison of the person named in the warrant, the person in charge of the prison or a person authorised by that person—

(a) must sign the receipt on the warrant for the person; and

(b) must complete the report on the warrant about the person's apparent physical condition and state of health.

187 Warrant of commitment if defendant already in prison

(1) If by any conviction or order it is adjudged that the defendant be imprisoned and the defendant is then undergoing imprisonment on a conviction for another offence, the warrant of commitment in relation to the subsequent offence must be immediately given to the gaoler to whom it is directed.

(2) The court or magistrate issuing the warrant of commitment may order by the warrant that the imprisonment for the subsequent offence is to begin at the end of the imprisonment that the defendant is then undergoing.

188 Mitigation of payment by court

(1) If in a case when either imprisonment or a fine is imposed there is prescribed a requirement for the defendant to enter into his or her recognisance and to find sureties for keeping the peace, or being of good behaviour, and observing some other condition, or to do any of such things, the court may dispense with the requirement or any part of it.

(2) If the court has authority under any law in force in the ACT (other than this Act), whether past or future, to impose imprisonment for an offence punishable on summary conviction, and has no authority to impose a fine for that offence, it may notwithstanding, when

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adjudicating on that offence, if it considers that the justice of the case will be better met by a fine than by imprisonment, impose a penalty not exceeding 50 penalty units, and not being of such an amount as will subject the offender under the provisions of this Act in default of payment of the penalty, to any greater term of imprisonment than that to which the offender is liable under the law authorising the imprisonment.

191 Accounts to be kept of amounts received

Every registrar, keeper of a gaol and superintendent of a remand centre must keep a true and exact account of all amounts received by him or her under or because of any conviction or order, showing the people from whom and the time when the amounts were received and to whom and when the amounts were paid.

Maximum penalty: 1 penalty unit.

193 Forfeited goods may be sold

Except where otherwise provided, all forfeitures, not financial, that are incurred in relation to an offence triable by the court or that may be enforced by the court, may be sold or disposed of or dealt with in the way that the court directs, and the proceeds of the sale must be applied in a similar way as if the proceeds were a fine imposed under the Act, ordinance or law on which the proceeding for forfeiture is founded.

194 Warrant of commitment or writ of execution not void for form only

A warrant of commitment or writ of execution must not be held void only because of any defect or error in it if there is a conviction or order that is good and valid or that may be amended and made good and valid under this Act to sustain it.

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195 Convictions etc to be given to Supreme Court registrar

(1) This section applies if a person is convicted of an indictable offence by the court or an information in relation to an indictable offence is dismissed by the court.

(2) The court must immediately give the registrar of the Supreme Court a copy of the conviction and recognisances or a copy of the certificate of dismissal (if any).

(3) The court must keep a conviction and dismissal book and record each conviction or dismissal in it.

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Part 3.10 Criminal appeals

Division 3.10.1 Criminal appeals—jurisdiction of Supreme Court

207 Jurisdiction of Supreme Court

(1) The appellate jurisdiction of the Supreme Court in relation to decisions of the Magistrates Court under this Act (other than chapter 4 (Civil proceedings)) extends to the hearing and deciding of the following appeals and to no others:

(a) appeals to which division 3.10.2 (Appeals in criminal matters) applies;

(b) reference appeals under division 3.10.2A (Reference appeals in criminal matters);

(c) appeals from decisions of the Magistrates Court by way of orders to review under division 3.10.3 (Orders to review in criminal matters).

(2) This part does not limit the operation of any other Act that makes provisions in relation to the appellate jurisdiction of the Supreme Court.

Division 3.10.2 Appeals in criminal matters

208 Appeals to which div 3.10.2 applies

(1) Each of the following appeals is an appeal to which this division applies:

(a) an appeal by any of the following from a decision of the Magistrates Court under the Crimes Act, section 315A (2)

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or (3) (Investigation into fitness to plead) or section 315D (7) (Person found temporarily unfit to plead):

(i) the person whose fitness to plead was decided;

(ii) anyone who appeared at the proceeding in which the decision was made;

(iii) anyone else with the leave of the court;

(b) an appeal, by the person convicted, from a conviction for an offence dealt with by the Magistrates Court under this Act, part 3.6 (Proceedings for offences punishable summarily), part 3.7 (Service and pleading by post for certain offences) or section 290 (Contempt in face of court) or under the Crimes Act, section 375;

(c) an appeal, by the person against whom the order is made, from an order made under this Act, section 113 or section 114 in a proceeding dealt with by the Magistrates Court under this Act, part 3.6 or under the Crimes Act, section 375;

(d) an appeal from a sentence or penalty imposed by the Magistrates Court by a person convicted of an offence dealt with by that court under this Act, section 90A, section 290, part 3.6 or part 3.7, or under the Crimes Act, section 375, whether or not the person appeals against the conviction in relation to which the sentence or penalty was imposed;

(e) an appeal, by the person charged, from a decision of the Magistrates Court made under—

(i) the Crimes Act, section 402 (1); or

(ii) the Crimes Act, section 402 (3); or

(iii) the Crimes Act, section 403 (1); or

(iv) the Crimes Act, section 407 (7) (b);

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(f) an appeal, by a person who has given a recognisance under the Crimes Act, section 402 or section 403 or by his or her surety, from a decision of the Magistrates Court on an application made under that Act, section 405 to that court.

(3) Subsection (1) does not affect any power that the Supreme Court has, apart from this Act, to grant bail or to vary the conditions of bail.

209 Institution of appeal

(1) An appeal must be instituted by the appellant filing a notice of appeal in the office of the registrar of the Supreme Court within the period of 28 days after the conviction was entered, the order or decision was made or the sentence or penalty imposed, or within any further time the Supreme Court allows.

(2) As soon as practicable after instituting the appeal, the appellant must—

(a) file a copy of the notice of appeal with the Magistrates Court; and

(b) serve a copy of the notice of appeal on—

(i) for an appeal mentioned in section 208 (1) (aa)—each other person mentioned in that paragraph; and

(ii) for any other appeal—the informant.

210 Substituted service of notice of appeal

(1) If it appears to the Supreme Court, on an application made for an order under this section, that personal service of a notice of appeal under section 209 on a person on whom it is required to be served cannot be effected, the Supreme Court may make the order for substituted or other service the Supreme Court considers just.

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(2) The Supreme Court may, on an application made for an order under this subsection, dispense with service of a notice of appeal if the court considers it necessary or expedient to do so.

(3) An order under subsection (2) may be made subject to the conditions (if any) the Supreme Court considers appropriate.

214 Appeals in cases other than civil cases

(1) This section applies to an appeal mentioned in section 208 (Appeals to which div 3.10.2 applies).

(2) In an appeal to which this section applies, the Supreme Court must have regard to the evidence given in the proceeding out of which the appeal arose, and has power to draw inferences of fact.

(3) In an appeal to which this section applies, the Supreme Court must—

(a) if it considers it necessary or expedient to do so in the interests of justice—

(i) order the production of a document or anything else that was an exhibit in, or was otherwise connected with, the proceeding out of which the appeal arose and that appears to it to be necessary to produce for deciding the appeal; and

(ii) order any person who was, or would have been if the person had been called, a compellable witness in the proceeding to attend for examination before the Supreme Court; and

(iii) receive the evidence, if tendered, of any witness; and

(b) receive evidence with the consent of the parties to the appeal.

(4) If evidence is tendered in an appeal to which this section applies, the Supreme Court must, unless satisfied that the evidence would not afford any ground for allowing the appeal, receive the evidence if—

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(a) it appears to the Supreme Court that the evidence is likely to be credible and would have been admissible in the proceeding out of the which the appeal arose on an issue relevant to the appeal; and

(b) the Supreme Court is satisfied that the evidence was not adduced in the proceeding and there is a reasonable explanation for the failure to adduce it.

216 Stay of execution pending appeal in certain cases

(1) If an appeal to which this division applies has been duly instituted, the enforcement or execution of the decision, conviction, order, sentence or penalty appealed from is stayed until the appeal is concluded or is abandoned or discontinued and, if the appellant is in custody, the appellant may, if not detained for any other cause, be granted bail in accordance with the *Bail Act 1992*.

(2) If the appellant in custody in relation to whom the enforcement or execution of a conviction is stayed—

(a) is not granted bail under the *Bail Act 1992*; or

(b) is not detained for any other cause;

the court or a magistrate may, by warrant, commit the person to a remand centre.

218 Orders by Supreme Court on appeals

(1) On an appeal to which this division applies, the Supreme Court may—

(a) confirm, reverse or vary the conviction, order, sentence, penalty or decision appealed from; or

(b) give the judgment, or make the order, that, in all the circumstances, it considers appropriate, or refuse to make an order; or

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(c) set aside the conviction, order, sentence, penalty or decision appealed from, in whole or in part, and remit the proceeding to the Magistrates Court for further hearing and decision, subject to the directions the Supreme Court considers appropriate.

(2) A judgment or order of the Supreme Court under subsection (1) (a) or (b) has effect as if it were a decision of the Magistrates Court and may be enforced by the Magistrates Court accordingly.

219 Barring right of appeal under div 3.10.2 if order to review granted

(1) If an order nisi to review a decision of the Magistrates Court has been granted under division 3.10.3 (Orders to review in criminal matters) to a person entitled to appeal against that decision to the Supreme Court under this division, the person ceases to be entitled to appeal to the Supreme Court under this division.

(2) If an order nisi to review a decision of the Magistrates Court is granted under division 3.10.3 to a person after the person has instituted an appeal to the Supreme Court under this division against that decision, the appeal is taken to have been withdrawn.

Division 3.10.2A Reference appeals in criminal matters

219A What is a reference appeal?

In this division:

reference appeal—see section 219AB (2).

219AB Reference appeal following acquittal on indictment

(1) This section applies if a person has been tried on indictment in the Magistrates Court and acquitted in relation to all or part of the indictment.

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(2) The Supreme Court may, on application by the Attorney-General or director of public prosecutions (the ***applicant***), hear and decide (by a ***reference appeal***) any question of law arising at or in relation to the trial.

(3) An application must be made within 6 weeks after the end of the trial, or within any longer period allowed by the Supreme Court.

219AC Who may be heard at reference appeal

(1) Each of the following people (each ***interested party***) may be heard in a reference appeal:

(a) a person charged at the trial;

(b) a person who seeks to be heard, if the court is satisfied that the person has a sufficient interest in the appeal to be heard.

(2) If an interested party is not represented in the appeal, the applicant must instruct counsel to argue the reference appeal on the party's behalf.

(3) The reasonable costs of legal representation of an interested party are payable by the Territory.

219AD Reference appeal decision does not affect trial verdict

The decision on a reference appeal does not invalidate or affect any verdict or decision given at the trial.

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Division 3.10.3 Orders to review in criminal matters

219B Appeals by way of orders to review

(1) Each of the following is a decision of the Magistrates Court from which an appeal by way of order to review may be made in accordance with this division:

(a) an order of the Magistrates Court dismissing an information dealt with by that court under this Act, part 3.6 (Proceedings for offences punishable summarily) or part 3.7 (Service and pleading by post for certain offences) or under the Crimes Act, section 375;

(b) a conviction by the Magistrates Court for an offence dealt with by that court under this Act, part 3.6 or part 3.7 or under the Crimes Act, section 375;

(c) an order made under this Act, section 113 or section 114 in a proceeding dealt with by the Magistrates Court under this Act, part 3.6 or under the Crimes Act, section 375;

(d) a decision of the Magistrates Court not to commit a person to the Supreme Court for sentence under section 92A;

(e) a decision of the Magistrates Court to dispose of a case summarily under the Crimes Act, section 375 (6) or (7);

(f) a sentence or penalty imposed by the Magistrates Court for an offence dealt with by that court under this Act, section 90A, part 3.6, part 3.7 or section 290 (Contempt in face of court) or under the Crimes Act, section 375.

(2) In subsection (1) (f):

sentence or penalty includes a decision or order made under the Crimes Act, section 402 (1) or (3), section 403 (1), section 404 (4) or (7) or section 405 (1) or (3), whether or not the person is convicted of the offence.

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219C Grant of order nisi to review

(1) This section applies if—

(a) within 28 days of the making of an order of a kind mentioned in section 219B (1) (a) or within any further time the Supreme Court allows, an application is made by the informant in the proceeding before the Magistrates Court; or

(b) within 28 days of the making of a decision of a kind mentioned in section 219B (1) (d), (e) or (f), an application is made by the informant in the proceeding before the Magistrates Court; or

(c) within 28 days after—

(i) the entering of a conviction of a kind mentioned in section 219B (1) (b); or

(ii) the making of an order of a kind mentioned in section 219B (1) (c);

or within any further time the Supreme Court allows, an application is made by the defendant in the proceeding before the Magistrates Court.

(2) The Supreme Court may grant an order nisi calling on the other party to the proceeding to show cause, on a date specified in the order nisi, why the decision of the Magistrates Court should not be reviewed on any 1 or more of the following grounds:

(a) that there was a prima facie case of error or mistake on the part of the Magistrates Court;

(b) that the Magistrates Court did not have jurisdiction or authority to make the decision;

(c) that the decision of the Magistrates Court should not in law have been made;

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(d) that, in the circumstances of the case, a decision of a kind mentioned in section 219B (1) (d) or (e) should not have been made;

(e) that a sentence or penalty of a kind mentioned in section 219B (1) (f) was manifestly inadequate or otherwise in error.

(3) On an application for an order to review a decision of the Magistrates Court or on an application made after the making of such an order, the Supreme Court may, if it considers appropriate, make an order requiring the magistrate by whom the Magistrates Court was constituted to give to the Supreme Court a report setting out the reasons for the decision of the Magistrates Court and any facts or matters that in the view of the magistrate were relevant to the decision of the Magistrates Court.

219D Security for costs and stay of execution

(1) The Supreme Court, in granting an order nisi under section 219C (2)—

(a) may order that the person on whose application the order is made give, within the time specified in the order or within any further time the Supreme Court allows, security in the amount the Supreme Court considers appropriate for the costs of the appeal; and

(b) may order that the enforcement or execution of the decision of the Magistrates Court be stayed pending the hearing of the appeal; and

(c) may, if the appellant is in custody and is not detained for any other cause, grant the appellant bail in accordance with the *Bail Act 1992*; and

(d) if the order nisi is made in relation to a decision of a kind mentioned in section 219B (1) (d) or (e) and, after making that

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decision, the Magistrates Court has, under the Crimes Act, section 375, heard and decided a case and sentenced or otherwise dealt with the defendant according to law—may order that the enforcement of any further decision made by the Magistrates Court in relation to the case be stayed.

(2) If the Supreme Court grants an order nisi in relation to an application by the informant in relation to a decision of the Magistrates Court of a kind mentioned in section 219B (1) (d) or (e), the proceeding in the Magistrates Court is stayed until the appeal is concluded, abandoned or discontinued.

(3) If security for the costs of the appeal is not given in accordance with the order of the Supreme Court, the Supreme Court may, on an application made by the person called on to show cause by the order nisi, revoke the order nisi.

219E Non-appearance of applicant

If the person on whose application the order nisi has been granted under section 219C (2) fails to appear on the date specified in the order or on any date to which the hearing is adjourned, the Supreme Court may discharge the order.

219F Powers of Supreme Court

(1) On the return of an order nisi to review a decision of the Magistrates Court, the Supreme Court, on consideration of the evidence before the Magistrates Court, and any further evidence called by leave of the Supreme Court—

(a) may, if satisfied that the decision of the Magistrates Court should be confirmed, discharge the order nisi; or

(b) may set aside or quash, in whole or in part, or otherwise vary or amend, the decision of the Magistrates Court.

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(2) If, under subsection (1) (b), the Supreme Court sets aside, quashes or otherwise varies or amends a decision of the Magistrates Court, the Supreme Court may—

(a) for a decision mentioned in section 219B (1) (d)—order that the Magistrates Court commit the person to whom the decision relates to the Supreme Court for sentence under section 92A; or

(b) for a decision mentioned in section 219B (1) (e)—order that the Magistrates Court continue the preliminary examination of the person to whom the decision relates in accordance with part 3.5; or

(c) for a decision mentioned in section 219B (1) (f)—

(i) impose the sentence or penalty the Supreme Court considers appropriate; or

(ii) by order, exercise any power that the Magistrates Court might have exercised; or

(d) in any other case—

(i) remit the matter to the Magistrates Court for rehearing or for further hearing with or without directions of law; or

(ii) make any further order, including an order granting any relief that the Supreme Court is empowered to grant on certiorari, mandamus, prohibition or habeas corpus, the Supreme Court considers necessary to decide the matter finally.

(3) For the purpose of—

(a) correcting any defect or error in the proceeding before the Magistrates Court; or

(b) enabling the matter to be decided on the merits;

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the Supreme Court may make the amendments of the proceeding in the Magistrates Court it considers appropriate.

(4) For subsections (1) (b) and (2) (c), the Supreme Court must not—

(a) vary a sentence or penalty such that the sentence or penalty as varied could not have been imposed by the Magistrates Court; or

(b) impose a sentence or penalty that could not have been imposed by the Magistrates Court.

(5) The Supreme Court may, despite the ground or any of the grounds on which the order nisi to review a decision of the Magistrates Court was granted has been established, discharge the order nisi if the Supreme Court is of the opinion that no substantial miscarriage of justice has happened.

(6) On the discharge of an order nisi to review a decision of the Magistrates Court, that decision may be enforced, executed or given effect to as if the order nisi had not been granted.

(7) If, in relation to a sentence or penalty mentioned in section 219B (1) (f), the Supreme Court—

(a) varies a sentence or penalty under subsection (1) (b); or

(b) imposes a sentence or penalty or makes an order under subsection (2) (b);

the sentence or penalty as varied or imposed or the order made has effect as if it were a decision of the Magistrates Court and may be enforced by the Magistrates Court accordingly.

(8) On an appeal under this division from an order, decision, sentence or penalty mentioned in section 219B (1) (a), (d), (e) or (f), the Supreme Court must order that the costs of and incidental to the appeal are payable by the appellant.

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(9) Subsection (8) applies whether the Supreme Court orders that the order nisi be discharged or exercises any of the other powers given to it by this section.

Division 3.10.4 Criminal appeals—other provisions

222 Control of Supreme Court over summary convictions

(1) A person brought before the Supreme Court, on habeas corpus, must not be discharged from custody because any defect or error in a warrant of commitment of the Magistrates Court, unless the court, or the magistrate constituting the court, and the prosecutor or other party interested in supporting the warrant have received reasonable and sufficient notice of the intention to apply for the discharge.

(2) The notice must require them to give to the Supreme Court the conviction, judgment or order (if any) on which the commitment was founded, together with the depositions and information intended to be relied on in support of the conviction, judgment or order, or certified copies of them.

223 Amendment of documents

(1) This section applies if—

(a) a document mentioned in section 222 (2) is given to the Supreme Court; and

(b) the offence charged or intended to be charged by the document appears to have been established; and

(c) the Magistrates Court's judgment appears to be in substance justified; and

(d) the defects or errors appear to be defects of form only or mistakes not affecting the substance of the proceeding before the Magistrates Court.

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(2) The Supreme Court must allow the warrant of commitment, and may allow the conviction, judgment or order also, to be immediately amended as necessary in accordance with the facts.

(3) The person committed must then be remanded to the person's former custody.

224 In cases of certiorari

The like proceedings as mentioned in section 222 and section 223 must be had, and the like amendments may and must be allowed to be made, in relation to every order brought before the Supreme Court by writ of certiorari, and after amendment in any such case the order may be enforced in the proper way, and must in all respects and for all purposes be regarded and dealt with as if it had been drawn up originally as amended.

225 Notice dispensed with

(1) The notice required by section 222 may be given either before or after the issue of the writ of habeas corpus, or certiorari.

(2) When at the time of applying for the writ—

(a) copies of the conviction or order and depositions are produced; or

(b) in cases of committal for trial or for sentence all informations, depositions, and statements have been given, as provided in section 106, to the director of public prosecutions or a person authorised by the director of public prosecutions;

the Supreme Court may dispense with the notice.

226 Power of court to admit to bail

(1) If any person committed to gaol under a summary conviction or order is brought up by writ of habeas corpus, and the Supreme Court

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postpones the final decision of the case, the Supreme Court may admit the person to bail in accordance with the *Bail Act 1992*.

(2) If the judgment of the Supreme Court is against any person so brought up, the Supreme Court may remand the person to his or her former custody, there to serve the rest of the term for which the person was committed.

227 Respecting the amendment of convictions etc

(1) Whenever the facts or evidence appearing by the depositions in substance support the decision of the Magistrates Court, if the decision does not extend beyond the information, and if the facts or evidence would have justified the court in making any necessary allegation or finding omitted in the decision, or in the formal conviction or order, or any warrant issued under the adjudication, the powers of amendment given by section 223 may be exercised, and if in a conviction there is some excess that may (consistently with the merits of the case) be corrected, the conviction must be amended accordingly and must stand good for the remainder.

(2) All amendments are subject to the order about costs and otherwise the Supreme Court considers appropriate.

228 No summons or information

(1) This section applies to a conviction or order in a case if—

(a) a relevant person is present at the hearing of the case; and

(b) there is no summons or information (or an amendment of a summons or information) in relation to the person; and

(c) the person does not object at the hearing about the matter mentioned in paragraph (b).

(2) The conviction or order stands.

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(3) In this section:

relevant person means—

(a) a convicted person; or

(b) a person against whom an order has been made; or

(c) a person whose goods have been condemned or ordered to be sold as forfeited.

229 Distribution of penalty

A conviction or an order is not defeated for the want of any distribution, or for a wrong distribution of the penalty or forfeiture.

230 Provisions applicable in relation to security given for costs of appeal

(1) If security is given, in accordance with an order made under section 219D, by deposit of an amount with the registrar, the registrar must—

(a) if, on the deciding of the appeal, the costs of and incidental to the appeal are not ordered to be paid by the appellant to the respondent—repay the amount deposited to the person by whom it was deposited; or

(b) if, on deciding of the appeal, the costs of and incidental to the appeal are ordered to be paid by the appellant to the respondent, the amount payable has been ascertained and the whole or any part of that amount has not been paid to the respondent—apply the amount deposited in, or towards, satisfaction of the amount of costs unpaid and repay the balance (if any) to the person by whom it was deposited.

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(2) If security is given by bond, the registrar must, if the costs of and incidental to the appeal are ordered to be paid by the appellant to the respondent, give the bond to the respondent who may enforce the bond according to its tenor.

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Part 3.11 Costs in criminal matters

244 Award of costs in criminal matters

The power of the court to award costs and the award of costs by the court is subject to the following provisions:

(a) if the court makes a conviction or order in favour of the informant—it may in its discretion award and order that the defendant must pay to the informant the costs it considers just and reasonable;

(b) if the court dismisses the information, or makes an order in favour of the defendant—it may in its discretion award and order that the informant must pay to the defendant the costs it considers just and reasonable;

(c) the amounts so allowed for costs must in all cases be specified in the conviction or order or order of dismissal;

(d) an amount awarded or ordered to be paid by an informant, or to a defendant, for costs may be recovered under the rules about the enforcement of judgments of the court in civil proceedings;

(e) if any case is adjourned—the court may in its discretion order that the costs of and occasioned by the adjournment be paid by any party to any other party;

(f) the costs of people present to give evidence or produce documents, whether they have been examined or not, or have or have not produced documents must, unless otherwise ordered by the court, be allowed to them though they have not been subpoenaed.

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Part 3.12 Securities in criminal matters

249 Securities taken under Act

(1) A person must give security under this Act (other than chapter 4 (Civil proceedings)), whether as principal or surety, either by the deposit of an amount with the registrar, or by an oral or written acknowledgment of the undertaking or condition by which, and of the amount for which, the person is bound.

Note If a form is approved under the *Court Procedures Act 2004* for this provision, the form must be used.

(2) Record of the security having been made may be provided by entry of it in the court's records.

250 Recovery of amount due under security

Any amount becoming due under a security under this Act (other than chapter 4 (Civil proceedings)) or the *Bail Act 1992* is recoverable on a claim by a police officer or by the registrar or by some other person authorised by the court.

252 Sums paid by surety may be recovered from principal

Any amount paid by a surety on behalf of his or her principal in relation to a security under this Act (other than chapter 4 (Civil proceedings)) or the *Bail Act 1992*, together with all costs, charges and expenses incurred by the surety in relation to the security, is taken to be a debt due to the surety from the principal, and may be recovered on a claim by the surety.

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253 Payment enforced by security

If security is given under this Act (other than chapter 4 (Civil proceedings)) or the *Bail Act 1992* for payment of an amount, the payment must be enforced by means of the security in substitution for other means of enforcing the payment.

254 Enforcement of recognisance

(1) If—

(a) a witness or a person sought to be made a witness has entered into a recognisance for this Act; and

(b) the court is satisfied that the witness or person sought to be made a witness has failed to comply with a condition of the recognisance;

the court may declare the recognisance to be forfeited and may make an order that the witness or person sought to be made a witness pay the whole or a part of the amount in which the witness or person is bound under the recognisance.

(2) If—

(a) the court has declared a recognisance to be forfeited under subsection (1); and

(b) a person is bound by the recognisance as surety for the performance of that condition;

the court may make an order that the person mentioned in paragraph (b) pay the whole or a part of the amount in which the person is bound under the recognisance.

(3) An order made under subsection (1) or (2) may be enforced as if it were a judgment entered on a claim by the registrar.

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(4) Subject to subsection (5), the court may, on application by a person against whom an order has been made under subsection (1) or (2) or under the *Bail Act 1992*, section 36 (1)—

(a) vary the order by reducing the amount payable under the order; or

(b) revoke the order and, if the order was made under subsection (1), revoke the declaration that the recognisance is forfeited.

(5) If—

(a) the court has made an order under subsection (1) or (2); and

(b) a writ of execution has been issued; and

(c) property has been sold under the writ;

the court must not make an order under subsection (4).

(6) It is not necessary that, for the purpose of hearing an application under subsection (4), the court be constituted by the magistrate who made the order to which the application relates.

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Chapter 4 Civil proceedings

Part 4.1 Preliminary

256 Application of ch 4 ((MC (CJ) Act, s 4)

This chapter does not apply in relation to—

(a) a proceeding under the *Domestic Violence and Protection Orders Act 2001*; or

(b) a proceeding under the *Workers Compensation Act 1951*; or

(c) a proceeding on an information for an offence.

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Part 4.2 Civil jurisdiction

257 Personal actions at law—amount or value (MC (CJ) Act, s 5)

(1) The Magistrates Court has jurisdiction to hear and decide any personal action at law if the amount claimed is not more than $50 000, including a personal action at law if—

(a) the amount claimed is the amount owing on a balance of account, after an admitted set-off or otherwise; or

(b) any amount in excess of $50 000 to which the plaintiff may be entitled in relation to the cause of action is abandoned in accordance with the rules.

(2) If the amount claimed in a personal action includes interest up to judgment, or a lump sum instead of interest, in accordance with the rules, the interest is disregarded in working out whether or not the court has jurisdiction.

(3) For this section, a ***personal action at law*** includes an action relating to the detention of goods, and the amount claimed in the action is the value of the goods plus any amount claimed for damages for the detention of the goods.

(4) Subsection (1) does not limit the court's jurisdiction if, under another law in force in the ACT, an amount may be recovered by action in the court (even if the amount is more than $50 000).

(5) The court's jurisdiction under subsection (1) is additional to any jurisdiction that the court has under any other law in force in the ACT.

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258 Power of court to grant relief (MC (CJ) Act, s 6)

(1) In any proceeding that the Magistrates Court has jurisdiction to hear and decide—

(a) the court may grant any relief, redress or remedy that the Supreme Court may grant in a similar action in that court, and for that purpose the Magistrates Court may make any order that the Supreme Court may make; and

(b) the court must give effect to any ground of defence, counterclaim or set-off, whether equitable or legal, in the same way and to the same extent that the Supreme Court would do.

(2) For the exercise by the Magistrates Court of its powers under subsection (1) in any proceeding—

(a) a magistrate constituting the court has, as well as any other powers under this Act, all the powers of a judge in a similar action in the Supreme Court; and

(b) the registrar, bailiff or other appropriate officer of the Magistrates Court must exercise any function that a corresponding officer of the Supreme Court would exercise in a similar action in that court in accordance with the practice and procedure of that court.

(3) In exercising a function mentioned in subsection (2), the registrar, a bailiff or other officer of the court must comply with this Act, the rules and any order of the Magistrates Court.

259 Rules of equity to prevail (MC (CJ) Act, s 7)

In any proceeding in the Magistrates Court, if there is a conflict between the rules of equity and the rules of common law, the rules of equity prevail.

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260 Nuisance (MC (CJ) Act, s 8 (1) and (2))

(1) The Magistrates Court has the same jurisdiction as the Supreme Court to hear and decide a civil action for nuisance.

(2) In a civil action for nuisance, the Magistrates Court may grant the same relief as the Supreme Court may grant in a similar action in that court.

261 Disputed debts (MC (CJ) Act, s 9)

(1) The Magistrates Court may, in a proceeding in the court, declare that—

(a) a person is or is not indebted to someone else; or

(b) a person is or is not indebted to someone else in a stated amount; or

(c) a person is or is not indebted to someone else in an amount that is more than a stated amount.

(2) This section applies only in relation to a debt that is not more than $50 000.

262 Cause of action arising, or defendant resident, outside ACT (MC (CJ) Act, s 10)

The Magistrates Court has jurisdiction to hear and decide a proceeding if—

(a) the defendant was resident in the ACT when the claim was served on the defendant, even though all of the cause of action in the proceeding arose outside the ACT; or

(b) both of the following apply, even though the defendant is not in the ACT:

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(i) a material part of the cause of action in the proceeding arose in the ACT, even though part of the cause of action arose outside the ACT;

(ii) the claim is served on the defendant in Australia or an external territory.

263 Requests under conventions relating to legal proceedings in civil and commercial matters

(1) The Magistrates Court has jurisdiction to make any order or take any action necessary to comply with a request received from the consular or other authority of a relevant foreign country for serving documents in the ACT or taking evidence in the ACT.

(2) In this section:

relevant foreign country—a foreign country is a ***relevant foreign country*** if a convention relating to legal proceedings in civil and commercial matters is in force between the country and Australia.

264 Proceedings affecting title to land (MC (CJ) Act, s 11)

(1) The Magistrates Court does not have jurisdiction to hear and decide a proceeding in which the title to land is genuinely in question.

(2) However, the jurisdiction of the Magistrates Court to hear and decide a proceeding is not affected only because the title to land incidentally comes in question in the proceeding.

(3) In a proceeding mentioned in subsection (2), a judgment is not evidence of title to land.

265 Disputes under Residential Tenancies Act (MC (CJ) Act, s 12A)

The Magistrates Court does not have jurisdiction in relation to a dispute to which the *Residential Tenancies Act 1997* applies if the amount in dispute is not more than $10 000.

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266 Complaints under Utilities Act, pt 12 (MC (CJ) Act, s 12B)

The Magistrates Court does not have jurisdiction in relation to a matter to the extent to which it is the subject of—

(a) a complaint under the *Utilities Act 2000*, part 12 (Complaints); or

(b) a direction or declaration of the essential services consumer council under that part.

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Part 4.3 Case stated for Supreme Court

267 Case stated (MC (CJ) Act, s 194, s 395 (2))

(1) On the application of a party to a proceeding in the Magistrates Court, the court may state, in the form of a special case, any question of law that arises in the proceeding for the opinion of the Supreme Court.

(2) The Supreme Court has jurisdiction to hear and decide a case stated under this section.

(3) This section does not apply to a proceeding in the Small Claims Court.

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Part 4.4 Transfer of proceedings from or to Supreme Court

268 Transfer of action from Supreme Court (MC (CJ) Act, s 381)

(1) This section applies if a proceeding in relation to the cause of action on which a prescribed action pending in the Supreme Court is founded could properly have been begun in the Magistrates Court.

(2) The Supreme Court may, on the application of a party to the action or its own initiative, order that the action be transferred to the Magistrates Court if it considers it just to do so.

(3) In subsection (1):

prescribed action means an action in which the amount claimed (whether initially or as reduced by payment, admitted set-off or otherwise) is not more than the amount for which the Magistrates Court has jurisdiction under this chapter.

269 Procedure on transfer of action from Supreme Court (MC (CJ) Act, s 382)

(1) This section applies if the Supreme Court has made an order under section 268 that an action pending in the Supreme Court be transferred to the Magistrates Court.

(2) A party to the action may file in the Magistrates Court a copy of the order, a copy of each of the pleadings (if any) in the action and any other relevant documents filed in the Supreme Court.

(3) When the copies have been filed, the action—

(a) stops being an action in the Supreme Court; and

(b) becomes a proceeding in the Magistrates Court.

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(4) The proceeding is taken to have been begun in the Magistrates Court on the day the action was begun in the Supreme Court.

(5) Costs in the proceeding are to be allowed—

(a) for costs incurred before the order under section 268 was made (including the costs of getting the order) and the costs of getting the copies mentioned in subsection (2)—in accordance with the rules under the *Court Procedures Act 2004* applying to the Supreme Court, but subject to any Supreme Court order; and

(b) for costs incurred after the order was made (not including the costs of getting the copies)—in accordance with the rules applying to the Magistrates Court.

(6) If costs mentioned in subsection (5) (a) are to be taxed, the costs must be taxed by the registrar in accordance with the rules applying to the Supreme Court.

270 Removal of proceedings into Supreme Court (MC (CJ) Act, s 383)

On the application of a party to a proceeding in the Magistrates Court, the Supreme Court may order that the proceeding be removed into the Supreme Court on the conditions about costs, security for the amount claimed or costs, or otherwise, that the Supreme Court considers just.

271 Stay of proceedings (MC (CJ) Act, s 384)

(1) This section applies if an application under section 270 to have a proceeding in the Magistrates Court removed into the Supreme Court is pending.

(2) On the application of a party to the proceeding, the Supreme Court may order that the proceeding be stayed until the application under section 270 is decided or until the Supreme Court orders otherwise.

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(3) An order that a proceeding be stayed takes effect immediately on a copy of the order being filed in the Magistrates Court.

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Part 4.5 Civil appeals

272 Definitions for pt 4.5 (MC (CJ) Act, s 385)

In this part:

appeal means an appeal to the Supreme Court—

(a) from a judgment or order of the Magistrates Court, whether final or interlocutory, in a proceeding that the Magistrates Court has jurisdiction to hear and decide under this chapter, other than a proceeding in its jurisdiction under part 4.6 (Small Claims Court); or

(b) from a judgment of the Small Claims Court.

judgment, in relation to a proceeding in the Small Claims Court, includes an order made in association with the proceeding, but does not include an interim order of the Small Claims Court under the rules.

273 Jurisdiction (MC (CJ) Act, s 386)

(1) The jurisdiction of the Supreme Court to hear and decide appeals is subject to the exceptions and conditions in this part.

(2) Subsection (1) does not affect the operation of any other law that provides for the appellate jurisdiction of the Supreme Court.

274 Cases in which appeal may be brought (MC (CJ) Act, s 387)

(1) An appeal may be brought only with the leave of the Supreme Court.

(2) However, an appeal may be brought as of right from a judgment or order—

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(a) for, or for the payment of, an amount of $2 000 or more; or

(b) in a proceeding in the Magistrates Court—

(i) in which the matter in issue amounts to, or is of the value of, $2 000 or more; or

(ii) that involves directly or indirectly a claim, demand or question to or in relation to any property or any civil right amounting to, or of the value of, $2 000 or more.

(3) This section does not apply in relation to an appeal from a judgment of the Small Claims Court.

275 Appeals—Small Claims Court (MC (CJ) Act, s 387A)

(1) A party to a proceeding in the Small Claims Court may, with the Supreme Court's leave, appeal from a judgment of the Small Claims Court in the proceeding.

(2) The Supreme Court may grant leave only if satisfied—

(a) that the decision of the Small Claims Court on a question of law was wrong; or

(b) that the conduct of the proceeding in the Small Claims Court was unfair to the applicant for leave to appeal.

276 Evidence on appeal (MC (CJ) Act, s 391)

In an appeal, the Supreme Court must have regard to the evidence given in the proceeding in the Magistrates Court out of which the appeal arose, and has power to draw inferences of fact and, in its discretion, to receive further evidence.

277 Powers of Supreme Court on appeal (MC (CJ) Act, s 393)

(1) On an appeal, the Supreme Court has the following powers in relation to the judgment or order appealed from:

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(a) to confirm, reverse or vary the judgment or order;

(b) to give any judgment or make any order it considers appropriate, or refuse to make an order;

(c) to set aside the judgment or order (completely or in part), and remit the proceeding to the Magistrates Court for further hearing and decision, subject to any directions the Supreme Court considers appropriate;

(d) to award execution from the Supreme Court or remit the proceeding to the Magistrates Court for the execution of the judgment or order of the Supreme Court.

(2) A judgment or order of the Supreme Court made in a proceeding remitted under subsection (1) (d) has effect as if it were a judgment or order of the Magistrates Court and may be enforced by the Magistrates Court accordingly.

(3) In this section:

Magistrates Court, in relation to an appeal from a judgment or order of the Small Claims Court, means the Small Claims Court.

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Part 4.6 Small Claims Court

278 Definitions for pt 4.6 (MC (CJ) Act, s 394)

applicant means a person making an application.

application means an application to the Small Claims Court, whether made under the rules or another territory law.

common boundaries determination means a determination under the *Common Boundaries Act 1981*, and includes a variation of a determination.

contract application means an application in relation to a contract, and includes an application for damages for breach of contract.

damages application means an application for damages for negligence or for any other tort except nuisance or trespass.

debt application means an application for the recovery of a debt.

debt declaration, in relation to a proceeding, means an order declaring that—

(a) the applicant is or is not indebted to the respondent; or

(b) the applicant is or is not indebted to the respondent in a stated amount; or

(c) the applicant is or is not indebted to the respondent in an amount that is more than a stated amount.

goods application means an application in relation to the provision of goods or services, and includes an application for damages for the detention of goods.

inquiry means an inquiry by the Small Claims Court under the rules.

nuisance application means an application for relief for nuisance.

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proceeding means a proceeding on an application.

referee means a referee appointed under this part.

respondent means the respondent to an application.

rules means rules under the *Court Procedures Act 2004* applying in relation to the Small Claims Court.

trespass application means an application for relief for trespass to land.

279 Small Claims Court (MC (CJ) Act, s 396)

(1) The Magistrates Court has jurisdiction to inquire into and decide applications for this part.

(2) The Magistrates Court is to be known as the Small Claims Court when exercising jurisdiction under this part.

280 Referees—appointment (MC (CJ) Act, s 397)

(1) The Executive may appoint a person as a referee for this part.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

(2) A person is eligible for appointment as a referee if the person is—

(a) a lawyer; and

(b) a member of the staff of the Magistrates Court or any other entity exercising judicial powers under a territory law.

(3) A person's appointment as referee ends if the person is no longer eligible for appointment under subsection (2).

Note A person's appointment also ends if the person resigns (see Legislation Act, s 210).

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281 Referees—functions (MC (CJ) Act, s 398)

(1) A referee may exercise the jurisdiction of the Small Claims Court in an inquiry in a proceeding by way of a contract application, damages application, debt application or goods application, or for a debt declaration or common boundaries determination.

(2) However, a referee only has jurisdiction in a proceeding in relation to an amount of not more than $3 000, or the equivalent value of goods or services (including any associated damages), excluding any claim for interest, or for a lump sum instead of interest, decided by the Small Claims Court under the rules.

(3) In exercising the jurisdiction of the Small Claims Court under this section, a referee—

(a) has all the functions of a magistrate; and

(b) is otherwise taken to be a magistrate for all purposes.

282 Referees—oath or affirmation of office (MC (CJ) Act, s 399)

(1) Before exercising functions as a referee, a referee must take an oath, or make an affirmation, before the Chief Justice.

(2) An oath or affirmation under subsection (1) must be in accordance with the form in schedule 1.

283 Jurisdiction (MC (CJ) Act, s 401)

(1) The Small Claims Court has jurisdiction to inquire into the following applications:

(a) contract applications;

(b) damages applications;

(c) debt applications;

(d) goods applications;

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(e) nuisance applications;

(f) trespass applications;

(g) applications for debt declarations;

(h) applications for common boundaries determinations.

(2) Section 257 (Personal actions at law—amount or value) and section 261 (Disputed debts) do not apply to a proceeding in the Small Claims Court.

284 $10 000 limit (MC (CJ) Act, s 402)

(1) The Small Claims Court's jurisdiction is limited to applications claiming amounts of not more than $10 000.

(2) In relation to debt declarations, the Small Claims Court's jurisdiction is limited to applications for declarations for debts of not more than $10 000.

(3) The monetary limit on the Small Claims Court's jurisdiction does not include any claim for interest, or for a lump sum instead of interest, decided by the Small Claims Court under the rules.

(4) In a goods application, the amount claimed is the value of the goods or services plus any amount claimed for damages for the detention of the goods.

(5) If, apart from this section, a person would be entitled to make an application claiming an amount of more than $10 000, the person may, by the application, abandon the excess by limiting the claim to $10 000.

(6) This section does not apply to an application for a common boundaries determination.

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285 Admissibility of conference proceedings in inquiries (MC (CJ) Act, s 427)

Evidence, or any statement, of words spoken or acts done at a conference under the rules is not admissible in an inquiry, unless the parties otherwise agree.

286 Small Claims Court's seal

The Small Claims Court must have a seal.

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Chapter 5 Miscellaneous

Part 5.1 Offences

290 Contempt in face of court

(1) A person commits an offence if the person does something in the face, or within the hearing, of the court that is a contempt of court.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

(2) For this section, if a person appears in a proceeding in accordance with section 311 (Appearance by audiovisual or audio links), the acts of the person and of any other person who is visible or audible to the court by means of audiovisual or audio link are taken to be in the face of the court.

(3) Without limiting the operation of any other provision of this Act, if a person commits an offence against subsection (1), a magistrate may proceed to charge the person and hear and dispose of the matter immediately and for that purpose receive evidence including unsworn evidence.

(4) If—

(a) a person has been charged under subsection (3) but the matter has not been disposed of; and

(b) a magistrate has reasonable grounds to believe that the person has committed an offence against subsection (1); and

(c) the magistrate considers that it is reasonable in all the circumstances—

(i) to order that the person be taken into custody to appear before the court; or

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(ii) to order that the person be remanded in custody from time to time for periods not exceeding 15 clear days at any one time; or

(iii) to release the person on bail; or

(iv) to make an order in relation to the person under subsection (7) before the alleged offence has been heard;

the magistrate may make such an order.

(5) An order under subsection (4) need not be in writing but the order must be reduced to writing, and a copy served on the alleged offender, as soon as practicable.

(6) Failure to comply with subsection (5) does not invalidate an order.

(7) If a person is convicted of an offence against subsection (1), the court, in addition to any penalty provided for under that subsection that it imposes, may make an order in relation to the person under subsection (8).

(8) An order under this subsection may provide for—

(a) the exclusion of the person from any building where the court sits or the environs of such a building; or

(b) prohibiting the person from approaching a magistrate, an officer of the court or a witness; or

(c) the imposition of any reasonable condition on the person.

(9) In this section:

court includes—

(a) a magistrate when exercising the jurisdiction of the court; or

(b) the registrar in the exercise of a judicial function.

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292 Failure to comply with order in nuisance action (MC (CJ) Act, s 8 (2))

A person must not contravene an order made by the court in a civil action for nuisance.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

294 Failure to comply with judgment for delivery of detained goods (MC (CJ) Act, s 217 (4))

A person who fails, without reasonable excuse, to comply with a judgment under the rules for the delivery of detained goods commits an offence.

Maximum penalty: 50 penalty units.

295 False or misleading statement by garnishee (MC (CJ) Act, s 329 (2))

A garnishee under a garnishee order made by the court who knowingly makes a statement in a notice given under the rules to the judgment creditor that is false or misleading commits an offence.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

296 Obligations of judgment creditor if garnishee pays too much (MC (CJ) Act, s 337 (1))

If a judgment creditor receives an amount paid under a garnishee order in excess of the amount required to satisfy the judgment debt, the judgment creditor must—

(a) notify the garnishee and the judgment debtor of the excess payment; and

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(b) pay the excess to the garnishee or the judgment debtor.

Maximum penalty: 10 penalty units.

297 Notice to be given if judgment debtor ceases employment (MC (CJ) Act, s 340 (1))

If a garnishee order made by the court attaching earnings is in force and the judgment debtor ceases to be employed by the garnishee, the judgment debtor and the garnishee must within 21 days after the judgment debtor ceases to be so employed, each notify the registrar in writing—

(a) that the judgment debtor has ceased employment with the garnishee; and

(b) specifying the date when the employment ceased;

and, if the judgment debtor has a new employer, the judgment debtor must also specify in his or her notice—

(c) the name and address of the new employer and the place of the new employment; and

(d) the amount of his or her earnings from the new employer.

Maximum penalty: 10 penalty units.

298 Prejudice to employee

(1) An employer must not dismiss an employee, or otherwise prejudice an employee in his or her employment, because a garnishee order attaching the earnings of the employee has been made by the court.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) If—

(a) an employee is dismissed or prejudiced within 6 months after a garnishee order is made; and

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(b) all the elements of the offence other than the reason for the employer's action are proved;

the onus of proving that the dismissal or prejudice was not because of the garnishee order is on the employer.

(3) A conviction under subsection (1) does not limit, restrict or otherwise effect any obligation that the garnishee may have in relation to the judgment debtor or any right or remedy that the judgment debtor may have against the garnishee under any other law in force in the ACT.

299 Interference with seized property etc

A person who knows that property has been seized under section 347 or is the subject of a notice under section 350 must not, except with the consent of the court or the written consent of the bailiff by whom the property was seized or the notice was served—

(a) interfere with or dispose of the property; or

(b) remove the property from the place where it was seized or where it was situated when the notice was served; or

(c) cause, permit or suffer the property to be interfered with, disposed of or removed.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

302 Contravention of Small Claims Court order in trespass proceeding (MC (CJ) Act, s 460 (2))

A person must not contravene an order of the Small Claims Court in a proceeding on a trespass application (within the meaning of part 4.6).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

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Part 5.2 Other

308 Magistrates Court's seal

The Magistrates Court must have a seal.

309 Directions about procedure

If the procedure for taking any step in a proceeding is not prescribed in this Act or the law under which the step is to be taken, the court may give directions in relation to the procedure to be followed in relation to the step.

310 Hearings generally to be in public

(1) The hearing of a proceeding before the Magistrates Court must be in public.

(2) However, if the magistrate presiding at a hearing is of the opinion that it is desirable in the public interest or in the interests of justice to do so, the magistrate may, by order—

(a) direct that the hearing or part of the hearing take place in private and give directions about the people who may be present; and

(b) give directions prohibiting or restricting the publication of evidence given at the hearing, whether in public or in private, or of matters contained in documents lodged with the court or received in evidence by the court for the purposes of the proceeding; and

(c) give directions prohibiting or restricting the disclosure to some or all of the parties to the proceeding of evidence given at the hearing, or of a matter contained in a document lodged with the court or received in evidence by the court for the purposes of the proceeding.

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(3) A person who, without reasonable excuse, contravenes an order under subsection (2) commits an offence.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

(4) Subsection (1)—

(a) does not apply in relation to a civil matter that, under another territory law, may be dealt with otherwise than in open court; and

(b) is subject to any other territory law that restricts who may be present at a hearing.

(5) This section applies in relation to the conduct of a conference or inquiry in the Small Claims Court as if—

(a) a reference to the hearing of a proceeding were a reference to the conduct of the conference or inquiry; and

(b) a reference to the magistrate presiding were a reference to the person presiding at the conference or inquiry; and

(c) all other necessary changes, and any other changes prescribed by rule, were made.

311 Appearance by audiovisual or audio links

(1) This section applies if, in relation to a proceeding or a part of a proceeding (the ***relevant proceeding***), the court has given a direction under the *Evidence (Miscellaneous Provisions) Act 1991*, section 20 (1) (Territory courts may take evidence and submissions from outside ACT) or section 32 (1) (Use of link in proceedings).

(2) If this section applies a person who, in a relevant proceeding—

(a) is required or entitled to appear personally, whether as a party or as a witness; or

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(b) is entitled to appear for another person;

may appear in the relevant proceeding and participate or give evidence in accordance with the direction.

(3) A person who appears in a relevant proceeding in accordance with this section is taken to be before the court.

(4) In this Act:

appearance, in relation to a proceeding and whether by a party or anyone else, includes appearance in accordance with this section if this section applies.

(5) In this section:

proceeding does not include a proceeding about bail.

312 Failure to give evidence—committal

(1) This section applies if the court is satisfied—

(a) that a witness before the court has contravened any of the following provisions of the Criminal Code (the ***relevant Code provisions***):

(i) section 720 (Failing to produce document or other thing);

(ii) section 721 (Failing to take oath);

(iii) section 722 (Failing to answer question or give information); or

(b) a person has contravened any of the relevant Code provisions in relation to an examination before the registrar under the rules.

(2) The court may—

(a) adjourn the proceeding for not longer than 8 days; and

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(b) issue a warrant committing the person to a gaol, lockup or remand centre until the earlier of the following:

(i) the date to which the proceeding is adjourned;

(ii) the person consents to comply with the relevant Code provisions.

(3) If—

(a) the court has adjourned the proceeding, and committed the person, under subsection (2) or this subsection; and

(b) the person is later brought before the court; and

(c) the person does not consent to comply with the relevant Code provisions;

the court may exercise the powers mentioned in subsection (2) in relation to the person.

(4) The periods for which a person is committed under this section must not total more than 28 days.

(5) However, the court must not commit a person under subsection (2) or (3) if the person is punished for an offence against any or the relevant Code provisions in relation to the contravention mentioned in subsection (1).

313 Commitment to remand centre

(1) If—

(a) a warrant has been issued for the commitment of a person to prison under this Act, section 145, section 154D or section 185 or the Crimes Act, section 397 (2); and

(b) a warrant under the *Removal of Prisoners Act 1968*, section 5 is not in force in relation to the person on the day when the person is taken into custody under the warrant mentioned in paragraph (a);

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the court or a magistrate may, by warrant, commit the person to a remand centre.

(2) If a warrant is issued under subsection (1), the warrant mentioned in subsection (1) (a) ceases, by force of this section, to have any effect.

314 Registrar to give directions for preparation of transcript

(1) If an application has been made for a copy of a transcript of depositions of which a record was made in accordance with section 316 (2), the registrar must give the directions the registrar considers necessary for ensuring that a transcript of the record is prepared and, for the purpose of enabling the transcript to be prepared, the record must be produced out of the custody of the registrar.

(2) If a transcript of a record is prepared in accordance with directions given under subsection (1), the person who prepared the transcript, or under whose supervision the transcript was prepared, must certify on the transcript, by signed writing, that the transcript is a true transcript of a record produced out of the custody of the registrar.

315 Applications for transcripts

(1) Subject to this section, if a record of any proceeding is constituted by—

(a) an audiovisual or a sound recording made in accordance with section 316 (2); or

(b) a shorthand or similar record made in accordance with section 316 (2); or

(c) writing taken down in accordance with section 316 (3); or

(d) a written statement or statements in accordance with section 90AA or section 110 (2);

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a person may make application to the registrar for a copy or a transcript of all or part of the record.

(2) The registrar must give the applicant a copy of the record or a transcript or a copy of the transcript of the record if—

(a) the applicant is a party to the proceeding; or

(b) for an applicant who is not a party to the proceeding—the registrar or a magistrate is satisfied that the applicant has good reason for applying.

(3) If a person applies for a transcript that has not been prepared, the registrar may require the applicant to deposit with the registrar in advance an amount that the registrar considers will not exceed the amount of the fee determined under the *Court Procedures Act 2004*, part 3 for the preparation of the transcript.

(4) Subject to subsections (5) and (6), if the registrar receives an application in accordance with this section—

(a) the registrar must, for an application relating to depositions; and

(b) the registrar may, in any other case;

give to the applicant a copy of the record or a copy of a transcript of the record relating to the depositions or other matter.

(5) The registrar must not give a copy of the record or a copy of a transcript under subsection (4) (a) unless there is written on the copy a certificate signed by the registrar stating that the copy is a true copy of the record or a true copy of a transcript of the record produced out of the custody of the registrar.

(6) This section does not require the registrar to give a copy of a transcript of any proceeding if—

(a) the proceeding was recorded by means of an audiovisual or a sound recording made in accordance with section 316 (2); and

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(b) the application for the copy was made after the end of 7 years after the date of completion of the proceeding to which the record relates; and

(c) the registrar does not have the record or a transcript of the record in his or her custody.

(7) If an amount deposited by a person under subsection (3) exceeds the fee determined under the *Court Procedures Act 2004*, part 3 for the preparation of the transcript, there is payable to the person the amount of the excess.

316 Record of proceedings

(1) In this section:

deposition includes a statement made by an accused person in reply to the question mentioned in section 92 (1), but does not include a written statement admitted under section 90AA or section 110 (2).

(2) Subject to subsection (3), a record of the depositions of a witness in any proceeding must be made—

(a) in a proceeding in relation to bail and if, in relation to proceeding or a part of the proceeding, the court has given a direction under the *Evidence (Miscellaneous Provisions) Act 1991*, section 20 (1) (Territory courts may take evidence and submissions from outside ACT) or section 32 (1) (Use of link in proceedings) that evidence be taken or a submission be made by audiovisual link—by means of audiovisual recording apparatus or sound-recording apparatus; and

(b) in any other case—

(i) by means of sound-recording apparatus; or

(ii) if the court so directs, by means of shorthand or any similar means.

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(3) If the court so directs, the depositions of a witness in any proceeding must not be recorded in accordance with subsection (2), but must be taken down in writing, and, after being read over to the witness or given to the witness to read, signed by the witness and the magistrate constituting the court.

(4) The registrar has the custody of any record of depositions made in accordance with subsection (2).

(5) The registrar may erase the record of the depositions of a witness recorded by means of recording apparatus and the record of any other part of a proceeding made by means of recording apparatus after the end of 7 years after the date of completion of the proceeding in which the record was made.

(6) However, the sound recording of any part of a proceeding—

(a) in which a person charged with an indictable offence is committed to take his or her trial before the Supreme Court; or

(b) in which evidence is taken under a request mentioned in section 263 (Requests under conventions relating to legal proceedings in civil and commercial matters); or

(c) under the *Safety, Rehabilitation and Compensation Act 1988* (Cwlth); or

(d) under the *Workers Compensation Act 1951* (other than prosecutions for offences against that Act);

must not be erased unless a transcript of the record of that part of the proceeding has been prepared.

(7) This section applies in relation to a proceeding before a magistrate as if a reference to the court were a reference to a magistrate.

317 Record of proceedings and transcript

(1) If a record made by means of recording apparatus, shorthand or similar means is produced out of the custody of the registrar and the

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record purports to be a record made in accordance with section 316 (2) of the depositions of a witness in any proceeding, the record is evidence that the person made the depositions in the proceeding.

(2) If—

(a) a recording is produced out of the custody of the registrar; and

(b) the recording contains a record of comments that purport—

(i) to have been made at the same time as a recording made in accordance with section 316 (2) of the depositions of a person in any proceeding; and

(ii) to have been made for the purpose of identifying the proceeding, voices recorded on the lastmentioned recording or anything else so recorded;

the firstmentioned recording is evidence of the identity of the proceeding, of the voices or of the thing.

(3) If—

(a) a document purports to be a transcript, or a copy of a transcript, of a record made in accordance with section 316 (2) of depositions made by a person in any proceeding; and

(b) the document bears a certificate that purports to be a certificate given in accordance with section 314 (2) or section 315 (6);

the document is evidence that the person made the depositions in the proceeding.

(4) If a document—

(a) purports to be the depositions of a witness in any proceeding as taken down in writing and signed in accordance with section 316 (3); or

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(b) purports to be a copy of the depositions of a witness in any proceeding as so taken down in writing and signed and bears a certificate that purports to be a certificate given in accordance with section 315 (6);

the document is evidence that the witness made the depositions in the proceeding.

(5) In this section:

recording apparatus means the recording apparatus, whether audiovisual or sound, by means of which a record of depositions of witnesses has been made under section 316 (2).

318 Person about to leave ACT may be ordered to be examined or produce documents

(1) If, by evidence on oath, a magistrate is satisfied that any person is able to give material evidence or to produce relevant or material documents relating to any information or claim pending before a court, and that the person is likely to be absent from the ACT when the case comes on for hearing, the magistrate may, on the application of any party, order that the evidence of the person be taken or the documents be produced before the magistrate, at any time before the hearing, in the same way as the evidence would be taken or the documents be produced at the hearing and after reasonable notice of the intended examination or production is given to the other party.

(2) If an order under subsection (1) is served on a person, it must be accompanied by a form to be completed by the person to claim his or her reasonable costs and expenses of attending the examination or production.

(3) A person is not entitled to refuse to comply with an order under subsection (1) because the person was not given the form mentioned in subsection (2) when the order was served on the person.

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(4) The taking of depositions before a magistrate under subsection (1) is a proceeding for section 316 (Recordings of proceedings).

319 Witnesses' rights and liabilities

On service on any person of an order made under section 318, the person must attend at the time and place appointed by the order, and has all the rights and liabilities that the person would have if the person was duly required by subpoena to appear to give evidence or to produce documents on the hearing.

320 Depositions to be given to registrar

(1) If depositions are taken before a magistrate under section 318, there must be given to the registrar—

(a) the record of the depositions made in accordance with section 316 (2) or the document containing the depositions as taken down in writing and signed in accordance with section 316 (3); and

(b) any documents produced to the magistrate.

(2) If documents are produced by a person not giving evidence, the documents, must, when given to the registrar, be accompanied by a certificate signed by the magistrate stating the name of the person producing them.

(3) If the court is satisfied that the person who made the depositions is not in the ACT, his or her depositions may be read by any party.

(4) Any documents so given to the registrar may, subject to all just exceptions, be put in at the hearing as if produced at the hearing by the person producing them.

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321 Regulation-making power

The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

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Schedule 1 Oath and affirmation of office

(see s 10)

Oath

I, [*name*], do swear that I will well and truly serve in the office of
and that I will do right to all manner of people according to law, without fear or favour, affection or ill will. So help me God!

Affirmation

I, [*name*], do solemnly and sincerely affirm and declare that I will well and truly serve in the office of and that I will do right to all manner of people, according to law, without fear or favour, affection or ill will.

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Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1 defines the following terms:

- custodial escort
- function
- judge
- lawyer
- remand centre
- remand centre administrator.

administering authority, for an infringement notice offence, for part 3.8 (Infringement notices for certain offences)—see section 117.

administrator, for chapter 3 (Criminal proceedings)—see section 18A.

another jurisdiction, for part 3.8 (Infringement notices for certain offences)—see section 117.

appeal, for part 4.5 (Civil appeals)—see section 272.

appearance—see section 311 (4).

applicant, for part 4.6 (Small Claims Court)—see section 278.

application, for part 4.6 (Small Claims Court)—see section 278.

authorised person, for part 3.8 (Infringement notices for certain offences)—see section 134A (3).

bailiff means a bailiff under this Act.

certified copies, of depositions, for division 3.5.6 (Indictable offences—other provisions)—see section 105A.

claim means a claim under the rules.

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common boundaries determination, for part 4.6 (Small Claims Court)—see section 278.

contract application, for part 4.6 (Small Claims Court)—see section 278.

conviction—

(a) means conviction by a magistrate for an offence; and

(b) for division 3.9.3 (Reciprocal enforcement of fines against bodies corporate)—see section 166A.

court means the Magistrates Court.

Crimes Act, for chapter 3 (Criminal proceedings)—see section 18A.

damages application, for part 4.6 (Small Claims Court)—see section 278.

date of service, of an infringement notice or reminder notice that has been, or is to be, served on a person, for part 3.8 (Infringement notices for certain offences)—see section 117.

debt application, for part 4.6 (Small Claims Court)—see section 278.

debt declaration, in relation to a proceeding, for part 4.6 (Small Claims Court)—see section 278.

decision, for chapter 3 (Criminal proceedings)—see section 18A.

default notice, for division 3.9.2 (Enforcement of fines)—see section 146.

defendant—

(a) for chapter 3 (Criminal proceedings)—see section 18A; and

(b) for part 3.7 (Service and pleading by post for certain offences)—see section 116A (1).

driver, of a vehicle, for part 3.8 (Infringement notices for certain offences)—see section 117.

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escort, for chapter 3 (Criminal proceedings)—see section 18A.

fine—

(a) for division 3.9.2 (Enforcement of fines)—see section 146; and

(b) for division 3.9.3 (Reciprocal enforcement of fines against bodies corporate)—see section 166A.

fine defaulter, for division 3.9.2 (Enforcement of fines)—see section 146.

goods application, for part 4.6 (Small Claims Court)—see section 278.

government agency, for division 3.9.2 (Enforcement of fines)—see section 146.

hearing includes the examination of a person charged with an indictable offence.

home address, of a person, for part 3.8 (Infringement notices for certain offences)—see section 117.

illegal user declaration, for part 3.8 (Infringement notices for certain offences)—see section 131D.

indictable offence means an offence that may be prosecuted before the Supreme Court by charge or indictment.

indictment means an information for an indictable offence presented by an authorised officer to a court with jurisdiction to try the accused person.

information includes a complaint brought to enforce a criminal penalty or forfeiture under a territory law.

infringement notice, for part 3.8 (Infringement notices for certain offences)—see section 117.

infringement notice offence, for part 3.8 (Infringement notices for certain offences)—see section 117.

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infringement notice penalty, for a person for an infringement notice offence, for part 3.8 (Infringement notices for certain offences)—see section 117.

inquiry, for part 4.6 (Small Claims Court)—see section 278.

judgment, in relation to a proceeding in the Small Claims Court, for part 4.5 (Civil appeals)—see section 272.

jury, for part 3.5 (Proceedings for indictable offences)—see section 88A.

known offender declaration, for part 3.8 (Infringement notices for certain offences)—see section 131E.

law in force in the ACT, for part 3.7 (Service and pleading by post for certain offences)—see section 116A (1).

magistrate—

(a) means the Chief Magistrate, a magistrate, or a special magistrate and, if a function of a magistrate is exercisable by a registrar, includes a registrar exercising the function; and

(b) for division 2.2.1 (Magistrates other than special magistrates)—see section 6.

notice of intention to defend form, for part 3.7 (Service and pleading by post for certain offences) (other than section 116B (2))—see section 116A (2).

notice to defendant form, for part 3.7 (Service and pleading by post for certain offences) (other than section 116B (2))—see section 116A (2).

nuisance application, for part 4.6 (Small Claims Court)—see section 278.

outstanding fine, for division 3.9.2 (Enforcement of fines)—see section 146.

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penalty notice, for division 3.9.2 (Enforcement of fines)—see section 146.

plea of guilty form, for part 3.7 (Service and pleading by post for certain offences) (other than section 116B (2))—see section 116A (2).

prescribed offence, for part 3.7 (Service and pleading by post for certain offences)—see section 116AA.

proceeding, for part 4.6 (Small Claims Court)—see section 278.

reciprocating court, for division 3.9.3 (Reciprocal enforcement of fines against bodies corporate)—see section 166A.

referee, for part 4.6 (Small Claims Court)—see section 278.

reference appeal, for division 3.10.2A (Reference appeals in criminal matters)—see section 219AB (2).

registered, for a vehicle, for part 3.8 (Infringement notices for certain offences)—see section 117.

registrar means the registrar of the Magistrates Court, and includes a deputy registrar of the court.

relevant officer, in relation to a reciprocating court, for division 3.9.3 (Reciprocal enforcement of fines against bodies corporate)—see section 166A.

reminder notice, for part 3.8 (Infringement notices for certain offences)—see section 117.

respondent, for part 4.6 (Small Claims Court)—see section 278.

responsible person, for a vehicle, for part 3.8 (Infringement notices for certain offences)—see the *Road Transport (General) Act 1999*, section 10 and section 11.

rules—

(a) means rules under the *Court Procedures Act 2004* applying in relation to the Magistrates Court; and

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(b) for part 4.6 (Small Claims Court)—see section 278.

Small Claims Court means the Magistrates Court when it is exercising jurisdiction under part 4.6.

sold vehicle declaration, for part 3.8 (Infringement notices for certain offences)—see section 131F.

State, for division 3.9.3 (Reciprocal enforcement of fines against bodies corporate)—see section 166A.

summary conviction means conviction by a magistrate for an offence.

superintendent, for a remand centre, for chapter 3 (Criminal proceedings)—see section 18A.

territory entity, for division 3.9.2 (Enforcement of fines)—see the *Auditor-General Act 1996*, dictionary.

territory fine, for division 3.9.3 (Reciprocal enforcement of fines against bodies corporate)—see section 166A.

trespass application, for part 4.6 (Small Claims Court)—see section 278.

unknown offender declaration, for part 3.8 (Infringement notices for certain offences)—see section 131G.

vehicle, for part 3.8 (Infringement notices for certain offences)—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.

vehicle-related offence, for part 3.8 (Infringement notices for certain offences)—see section 117.

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Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended
amdt = amendment
ch = chapter
def = definition
dict = dictionary
disallowed = disallowed by the Legislative Assembly
div = division
exp = expires/expired
Gaz = gazette
hdg = heading
IA = Interpretation Act 1967
ins = inserted/added
LA = Legislation Act 2001
LR = legislation register
LRA = Legislation (Republication) Act 1996
mod = modified/modification
o = order
om = omitted/repealed
ord = ordinance
orig = original
par = paragraph/subparagraph
pres = present
prev = previous
(prev...) = previously
pt = part
r = rule/subrule
renum = renumbered
reloc = relocated
R[X] = Republication No
RI = reissue
s = section/subsection
sch = schedule
sdiv = subdivision
sub = substituted
SL = Subordinate Law
<u>underlining</u> = whole or part not commenced or to be expired

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3 Legislation history

This Act was originally a Commonwealth ordinance—the *Magistrates Court Act 1930* No 21 (Cwlth).

The *ACT Self-Government (Consequential Provisions) Act 1988* No 109 (Cwlth), s 12) converted some former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 1 July 1990.

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on its conversion to an ACT enactment on 1 July 1990.

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

After 11 May 1989 and before 10 November 1999, Acts commenced on their notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) s 25).

Legislation before becoming Territory enactment

Magistrates Court Act 1930 No 21
notified 21 November 1930
commenced 21 November 1930

as amended by

Court of Petty Sessions Ordinance 1932 No 21
notified 17 November 1932
commenced 17 November 1932

Court of Petty Sessions Ordinance 1934 No 17
notified 19 July 1934
commenced 19 July 1934

Money Lenders Ordinance 1936 No 13
notified 9 April 1936
commenced 1 May 1936

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Court of Petty Sessions Ordinance 1937 No 5
notified 27 May 1937
commenced 27 May 1937

Court of Petty Sessions Ordinance (No 2) 1937 No 28
notified 23 December 1937
commenced 23 December 1937

Seat of Government (Designation) Ordinance 1938 No 25 (as amd by Ord 1938 No 35)
notified 8 September 1938
commenced 8 September 1938

Ordinances Revision Ordinance 1938 No 35
notified 15 December 1938
commenced 15 December 1938

Court of Petty Sessions Ordinance 1940 No 20
notified 7 November 1940
commenced 7 November 1940

Court of Petty Sessions Ordinance (No 2) 1940 No 22
notified 12 December 1940
commenced 12 December 1940

Court of Petty Sessions Ordinance 1949 No 13
notified 1 December 1949
commenced 1 December 1949

Court of Petty Sessions Ordinance 1951 No 7
notified 26 July 1951
commenced 26 July 1951

Court of Petty Sessions Ordinance (No 2) 1951 No 12
notified 14 December 1951
commenced 14 December 1951

Court of Petty Sessions Ordinance 1953 No 14
notified 12 November 1953
commenced 3 December 1953

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Court of Petty Sessions Ordinance 1958 No 12
notified 24 July 1958
commenced 24 July 1958

Court of Petty Sessions Ordinance 1961 No 2
notified 29 March 1961
commenced 29 March 1961

Court of Petty Sessions Ordinance 1966 No 2
notified 10 February 1966
commenced 14 February 1966

Court of Petty Sessions Ordinance 1967 No 1
notified 9 February 1967
commenced 9 February 1967

Court of Petty Sessions Ordinance 1968 No 25
notified 19 December 1968
commenced 1 January 1969 (Cwlth Gaz 1968 p 7565)

Court of Petty Sessions Ordinance 1969 No 12
notified 20 June 1969
commenced 20 June 1969

Court of Petty Sessions Ordinance 1970 No 15
notified 19 March 1970
commenced 19 March 1970

Court of Petty Sessions Ordinance 1972 No 37
notified 16 November 1972
s 1, s 2, s 6, s 14, commenced 16 November 1972
remainder commenced 1 February 1973 (Cwlth Gaz 1972 No 118)

Court of Petty Sessions Ordinance 1973 No 48
notified 17 December 1973
commenced 17 December 1973

Court of Petty Sessions Ordinance 1974 No 14
notified 17 April 1974
commenced 17 April 1974

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Ordinances Revision (Age of Majority) Ordinance 1974 No 47
notified 24 October 1974
commenced 1 November 1974

Court of Petty Sessions (Amendment) Ordinance 1976 No 42
notified 13 September 1976
commenced 13 September 1976

Court of Petty Sessions (Amendment) Ordinance 1977 No 4
notified 24 March 1977
ss 1-3, 10 commenced 24 March 1977
remainder commenced 28 March 1977 (Cwlth Gaz 1977 No S52)

Court of Petty Sessions (Amendment) Ordinance (No 2) 1977 No 34
notified 28 July 1977
commenced 28 July 1977

Court of Petty Sessions (Amendment) Ordinance (No 3) 1977 No 56
notified 6 October 1977
ceased to have effect because not tabled

Court of Petty Sessions (Amendment) Ordinance (No 4) 1977 No 61
notified 21 November 1977
commenced 21 November 1977

Ordinances Revision Ordinance 1978 No 46
notified 28 December 1978
commenced 28 December 1978

Court of Petty Sessions (Amendment) Ordinance 1979 No 33
notified 14 November 1979
commenced 14 November 1979

Court of Petty Sessions (Amendment) Ordinance (No 2) 1979 No 41
notified 18 December 1979
commenced 18 December 1979

Court of Petty Sessions (Amendment) Ordinance 1980 No 4
notified 20 March 1980
commenced 1 April 1980 (Cwlth Gaz 1980 No S66)

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Court of Petty Sessions (Amendment) Ordinance (No 2) 1980 No 10
notified 26 March 1980
commenced 26 March 1980

Court of Petty Sessions (Amendment) Ordinance 1982 No 2
notified 26 February 1982
commenced 1 September 1982 (Cwlth Gaz 1982 No S178)

Court of Petty Sessions (Amendment) Ordinance (No 2) 1982 No 3
notified 26 February 1982
commenced 26 February 1982

Court of Petty Sessions (Amendment) Ordinance 1984 No 9
notified 11 April 1984
commenced 11 April 1984

Court of Petty Sessions (Amendment) Ordinance (No 2) 1984 No 10
notified 11 April 1984
commenced 11 April 1984

Court of Petty Sessions (Amendment) Ordinance (No 3) 1984 No 16
notified 1 June 1984
commenced 1 June 1984

Court of Petty Sessions (Amendment) Ordinance (No 4) 1984 No 61
notified 2 November 1984
commenced 2 November 1984

Court of Petty Sessions (Amendment) Ordinance (No 5) 1984 No 62
notified 2 November 1984
commenced 2 November 1984

Court of Petty Sessions (Amendment) Ordinance 1985 No 17
notified 17 April 1985
commenced 17 April 1985

Court of Petty Sessions (Amendment) Ordinance (No 2) 1985 No 18
notified 17 April 1985
commenced 17 April 1985

Court of Petty Sessions (Amendment) Ordinance (No 3) 1985 No 41
notified 5 September 1985
commenced 5 September 1985

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Limitation Ordinance 1985 No 66
notified 19 December 1985
commenced 19 December 1985

Magistrates Court Ordinance 1985 No 67
notified 19 December 1985
commenced 1 February 1986 (Cwlth Gaz 1986 No G3)

Magistrates Court (Amendment) Ordinance 1986 No 33
notified 7 August 1986
commenced 7 August 1986

Domestic Violence (Miscellaneous Amendments) Ordinance 1986 No 53
notified 4 September 1986
commenced 1 October 1986 (Cwlth Gaz 1986 No S484)

Crimes (Amendment) Ordinance (No 4) 1986 No 57
notified 3 October 1986
commenced 3 October 1986

Magistrates Court (Amendment) Ordinance (No 2) 1986 No 71
notified 30 October 1986
commenced 1 April 1987 (Cwlth Gaz 1987 No S52)

Magistrates Court (Amendment) Ordinance (No 3) 1986 No 74
notified 14 November 1986
commenced 14 November 1986

Magistrates Court (Amendment) Ordinance (No 4) 1986 No 83
notified 22 December 1986
commenced 22 December 1986

Magistrates Court (Amendment) Ordinance 1987 No 56
notified 21 October 1987
commenced 21 October 1987

Magistrates Court (Amendment) Ordinance 1988 No 45
notified 27 July 1988
commenced 27 July 1988

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Magistrates Court (Amendment) Ordinance 1989 No 55
notified 30 June 1989
commenced 1 July 1989

Magistrates Court (Amendment) Ordinance (No 2) 1989 No 59
notified 25 October 1989
s 11, s 12, s 14 commenced 27 June 1990 (Cwlth Gaz 1990 No GN25)
remainder commenced 25 October 1989

Magistrates Court (Amendment) Ordinance (No 3) 1989 No 60
notified 20 December 1989
commenced 14 February 1990 (Cwlth Gaz 1990 No GN5)

Crimes (Amendment) Ordinance 1990 No 1
notified 23 May 1990
commenced 23 May 1990

Self-Government (Consequential Amendments) Ordinance 1990 No 5
notified 27 June 1990
s 1, s 2 commenced 27 June 1990
remainder commenced 1 July 1990

Magistrates Court (Appeals Against Sentence) Ordinance 1990 No 9
notified 29 June 1990
commenced 29 June 1990

Legislation after becoming Territory enactment

Magistrates Court (Amendment) Act 1990 No 65
notified 24 December 1990
commenced 24 December 1990

Weapons (Consequential Amendments) Act 1991 No 9 sch
notified 3 April 1991 (Gaz 1991 No S19)
s 1, s 2 commenced 3 April 1991 (s 2 (1))
sch commenced 3 October 1991 (s 2 (2))

Magistrates Court (Amendment) Act 1991 No 38
notified 20 September 1991
ss 1-3 commenced 20 September 1991
remainder commenced 25 September 1991 (Gaz 1991 No S103)

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Magistrates and Coroner's Courts (Registrar) Act 1991 No 44
notified 20 September 1991 (Gaz 1991 No S95)
s 1, s 2 commenced 20 September 1991 (s 2 (1))
remainder commenced 25 September 1991 (s 2 (2) and Gaz 1991 No S103)

Magistrates Court (Amendment) Act (No 2) 1991 No 79
notified 11 December 1991
ss 1-3 commenced 11 December 1991
remainder commenced 11 June 1992

Workers' Compensation (Consequential Amendments) Act 1991 No 106 sch
notified 15 January 1991 (Gaz 1992 No S3)
s 1, s 2 commenced 15 January 1992 (s 2 (1))
remainder commenced 22 January 1992 (s 2 (2) and Gaz 1992 No S9)

Magistrates Court (Amendment) Act (No 3) 1991 No 112
notified 10 January 1992
s 1, s 2 commenced 10 January 1992
remainder commenced 18 May 1992 (Gaz 1992 No S57)

Bail (Consequential Amendments) Act 1992 No 9
notified 28 May 1992 (Gaz 1992 No S59)
s 1, s 2 commenced 28 May 1992 (s 2 (1))
remainder commenced 28 November 1992 (s 2 (3))

Statute Law Revision (Miscellaneous Provisions) Act 1992 No 23 sch 1
notified 4 June 1992 (Gaz 1992 No S71)
commenced 4 June 1992

Protection Orders (Reciprocal Arrangements) (Consequential Amendments) Act 1992 No 37 pt 3
notified 8 July 1992 (Gaz 1992 No S103)
ss 1-6 and 8-11 commenced 8 July 1992 (s 2 (1))
s 7, s 12 commenced 3 August 1992 (s 2 (2) and Gaz 1992 No S130)

Evidence (Amendment) Act 1993 No 2
notified 1 March 1993
commenced 1 March 1993

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Magistrates Court (Amendment) Act 1993 No 4
notified 1 March 1993
ss 1-3 commenced 1 March 1993
ss 4-19, 21-24, 26-32 commenced 8 March 1993 (Gaz 1993 No 32)
remainder commenced 1 September 1993

Magistrates Court (Amendment) Act (No 2) 1993 No 48
notified 27 August 1993
ss 1-3 commenced 27 August 1993
remainder commenced 27 September 1993 (s 2 (2) and Gaz 1993 No S201)

Supreme Court (Amendment) Act (No 2) 1993 No 91
notified 17 December 1993
commenced 17 December 1993

Magistrates Court (Amendment) Act 1994 No 4
notified 14 March 1994
ss 1-4, s 10, s 12, s 13 commenced 14 March 1994
remainder commenced 1 July 1994 (s 2 (2))

Judicial Commissions (Consequential Amendments) Act 1994 No 10
notified 14 March 1994 (Gaz 1994 No S44)
commenced 14 March 1994 (s 2)

Public Sector Management (Consequential and Transitional Provisions) Act 1994 No 38
notified 30 June 1994 (Gaz 1994 No S121)
s 1, s 2 commenced 30 June 1994 (s 2 (1))
remainder commenced 1 July 1994 (s 2 (2) and Gaz 1994 No S142)

Mental Health (Consequential Provisions) Act 1994 No 45
notified 7 September 1994 (Gaz 1994 No S177)
s 1, s 2 commenced 7 September 1994 (s 2 (1))
remainder commenced 6 February 1995 (s 2 (2) and Gaz 1995 No S33)

Magistrates Court (Enforcement of Judgments) Act 1994 No 61
notified 11 October 1994
s 1, s 2 commenced 11 October 1994
remainder commenced 10 April 1995 (Gaz 1995 No S75)

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Coroners (Amendment) Act (No 2) 1994 No 66
notified 11 October 1994
commenced 11 October 1994

Statute Law Revision (Penalties) Act 1994 No 81 sch
notified 29 November 1994 (Gaz 1994 No S253)
s 1, s 2 commenced 29 November 1994 (s 2 (1))
remainder commenced 29 November 1994 (s 2 (2) and Gaz 1994 No S269)

Magistrates Court (Amendment) Act 1995 No 41
notified 7 November 1995
s 1, s 2 commenced 7 November 1995
remainder commenced 7 May 1996

Statute Law Revision Act 1995 No 46 sch
notified 18 December 1995 (Gaz 1995 No S306)
amdts commenced 18 December 1995 (s 2)

Magistrates Court (Amendment) Act 1996 No 6
notified 12 March 1996
ss 1-3 commenced 12 March 1996
s 7 commenced 25 September 1991
remainder commenced 12 September 1996

Criminal Injuries Compensation (Amendment) Act 1996 No 68
notified 20 December 1996
ss 1-3 commenced 20 December 1996
remainder commenced 1 January 1997 (Gaz 1996 No S352)

Firearms Act 1996 No 74
notified 20 December 1996
s 1, s 2 commenced 20 December 1996
remainder commenced 17 May 1997 (Gaz 1997 No S135)

Magistrates Court (Amendment) Act (No 2) 1996 No 82
notified 20 December 1996
ss 1-3 commenced 20 December 1996
remainder commenced 1 January 1997 (Gaz 1996 No S353)

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Magistrates Court (Amendment) Act 1997 No 25
notified 29 May 1997
ss 1-3 commenced 29 May 1997
remainder commenced 30 May 1997 (s 2 (2) and Gaz 1997 No S149)

Remuneration Tribunal (Consequential Amendments) Act 1997 No 41 sch 1 (as am by Act 2002 No 49 amdt 3.222)
notified 19 September 1997 (Gaz 1997 No S264)
commenced 24 September 1997 (s 2 as am by Act 2002 No 49 amdt 3.222)

Magistrates Court (Civil Jurisdiction) (Amendment) Act 1997 No 94
notified 1 December 1997
ss 1-3 commenced 1 December 1997
remainder commenced 25 May 1998 (Gaz 1998 No S140)

Legal Practitioners (Consequential Amendments) Act 1997 No 96 sch 1
notified 1 December 1997 (Gaz 1997 No S380)
s 1, s 2 commenced 1 December 1997 (s 2 (1))
sch 1 commenced 1 June 1998 (s 2 (2))

Magistrates Court (Amendment) Act 1998 No 25
notified 10 July 1998
s 1, s 2 commenced 10 July 1998
remainder commenced 1 January 1999 (Gaz 1998 No 50)

Magistrates Court (Amendment) Act (No 2) 1998 No 38
notified 14 October 1998
ss 1-3 commenced 14 October 1998
remainder commenced 19 October 1998 (Gaz 1998 No 41)

Statute Law Revision (Penalties) Act 1998 No 54 sch
notified 27 November 1998 (Gaz 1998 No S207)
s 1, s 2 commenced 27 November 1998 (s 2 (1))
remainder commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

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Custodial Escorts (Consequential Provisions) Act 1998 No 67
notified 23 December 1998 (Gaz 1998 No S212)
s 1, s 2 commenced 23 December 1998 (s 2 (1))
remainder commenced 23 December 1998 (s 2 (2) and Gaz 1998 No 51)

Children's Services (Amendment) Act 1999 No 12
notified 23 March 1999
commenced 1 May 1999

Courts and Tribunals (Audio Visual and Audio Linking) Act 1999 No 22
notified 14 April 1999 (Gaz 1999 No S16)
s 1, s 2 commenced 14 April 1999 (s 2 (1))
remainder commenced 1 September 1999 (s 2 (2) and Gaz 1999 No 35)

Magistrates Court (Amendment) Act 1999 No 34
notified 2 July 1999
commenced 2 July 1999

Magistrates Court Amendment Act (No 2) 1999 No 59
notified 10 November 1999 (Gaz 1999 No 45 and 1999 No 47)
commenced 10 November 1999

Children's Services Amendment Act (No 2) 1999 No 61
notified 10 November 1999
s 1, s 2 commenced 10 November 1999
remainder commenced 1 December 1999

Children and Young People (Consequential Amendments) Act 1999 No 64 sch 2
notified 10 November 1999 (Gaz 1999 No 45)
s 1, s 2 commenced 10 November 1999 (s 2 (1))
remainder commenced 10 May 2000 (s 2 (2))

Law Reform (Miscellaneous Provisions) Act 1999 No 66 sch 3
notified 10 November 1999 (Gaz 1999 No 45)
commenced 10 November 1999 (s 2)

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Road Transport Legislation Amendment Act 1999 No 79 sch 3
notified 23 December 1999 (Gaz 1999 No S65)
s 1, s 2 commenced 23 December 1999 (IA s 10B)
remainder commenced 1 March 2000 (s 2 (2) and Gaz 2000 No S5)

Victims of Crime (Financial Assistance) (Amendment) Act 1999 No 91 sch 2
notified 23 December 1999 (Gaz 1999 No S65)
s 1, s 2 commenced 23 December 1999 (IA s 10B)
remainder commenced 24 December (s 2 (2) and Gaz 1999 No S69)

Justice and Community Safety Legislation Amendment Act 2000 No 1 sch
notified 9 March 2000 (Gaz 2000 No 10)
s 1, s 2 commenced 9 March 2000 (s 2 (1))
amdts commenced 9 September 2000 (s 2 (3))

Justice and Community Safety Legislation Amendment Act 2000 (No 3) No 17 sch 1
notified 1 June 2000 (Gaz 2000 No 22)
commenced 1 June 2000 (s 2)

Magistrates Court Amendment Act 2000 No 60
notified 5 October 2000 (Gaz 2000 No 40)
commenced 5 October 2000 (s 2)

Leases (Commercial and Retail) Act 2001 No 18 s 174
notified 19 April 2001 (Gaz 2001 No 16)
s 1, s 2 commenced 19 April 2001 (IA s 10B)
s 174 commenced 1 July 2002 (s 2)

Legislation (Consequential Amendments) Act 2001 No 44 pt 237
notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 237 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Statute Law Amendment Act 2001 (No 2) 2001 No 56 pt 3.37
notified 5 September 2001 (Gaz 2001 No S65)
commenced 5 September 2001 (s 2 (1))

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Road Transport (Public Passenger Services) Act 2001 No 62 pt 1.1
notified 10 September 2001 (Gaz 2001 No S66)
s 1, s 2 commenced 10 September 2001 (IA s 10B)
pt 1.1 commences 1 December 2001 (s 2 and CN 2001 No 2)

Crimes Legislation Amendment Act 2001 No 63 pt 8
notified 10 September 2001 (Gaz 2001 No S66)
s 1, s 2 commenced 10 September 2001 (IA s 10B)
pt 8 commenced 27 September 2001 (s 2 (2) and CN 2001 No 3)

Criminal Code 2001 Act No 64 sch 1 (as am by Criminal Code Amendment Act 2002 No 2)
notified 10 September 2001 (Gaz 2001 No S66)
repealed before commencement by Criminal Code 2002 No 51 s 126

Justice and Community Safety Legislation Amendment Act 2001 No 70 sch 1
notified LR 14 September 2001
amdt commenced 14 September 2001 (s 2 (5))

Fair Trading Legislation Amendment Act 2001 No 77 pt 4
notified LR 14 September 2001
s 1, s 2 commenced 14 September 2001 (LA s 75)
pt 4 commenced 14 March 2002 (LA s 79)

Protection Orders (Consequential Amendments) Act 2001 No 90 sch 1 pt 8
notified LR 27 September 2001
s 1, s 2 commenced 27 September 2001 (LA s 75)
sch 1 pt 8 commenced 27 March 2002 (s 2 and LA s 79)

Criminal Code Amendment Act 2002 No 2 s 4
notified LR 7 March 2002
s 1, s 2 commenced 7 March 2002 (LA s 75)
remainder commenced 9 March 2002 (s 2)

Note This Act only amends the Criminal Code 2001 Act No 64. The Criminal Code 2001 was repealed before it commenced (see Act 2002 No 51 s 126)

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Statute Law Amendment Act 2002 No 30 pt 3.46
notified LR 16 September 2002
s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))
pt 3.46 commenced 17 September 2002 (s 2 (1))

Magistrates Court (Refund of Fees) Amendment Act 2002 No 36
notified LR 10 October 2002
s 1, s 2 commenced 10 October 2002 (LA s 75 (1))
remainder commenced 11 October 2002 (s 2)

Statute Law Amendment Act 2002 (No 2) No 49 amdt 3.222
notified LR 20 December 2002
s 1, s 2 taken to have commenced 7 October 1994 (LA s 75 (2))
amdt 3.222 taken to have commenced 24 September 1997 (s 2 (3))

Note This Act only amends the Remuneration Tribunal (Consequential Amendments) Act 1997 No 41.

Justice and Community Safety Legislation Amendment Act 2003 A2003-2 pt 14
notified LR 3 March 2003
s 1, s 2 commenced 3 March 2003 (LA s 75 (1))
pt 14 commenced 31 March 2003 (s 2 (2))

Evidence (Miscellaneous Provisions) Amendment Act 2003 A2003-48 sch 2 pt 2.8
notified LR 31 October 2003
s 1, s 2 commenced 31 October 2003 (LA s 75 (1))
sch 2 pt 2.8 commenced 30 April 2004 (s 2 and LA s 79)

Statute Law Amendment Act 2003 (No 2) A2003-56 sch 3 pt 3.14
notified LR 5 December 2003
s 1, s 2 commenced 5 December 2003 (LA s 75 (1))
sch 3 pt 3.14 commenced 19 December 2003 (s 2)

Sexuality Discrimination Legislation Amendment Act 2004 A2004-2 sch 2 pt 2.6
notified LR 18 February 2004
s 1, s 2 commenced 18 February 2004 (LA s 75 (1))
sch 2 pt 2.6 commenced 22 March 2004 (s 2 and CN2004-4)

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Bail Amendment Act 2004 A2004-14 sch 2 pt 2.2
notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 2 pt 2.2 commenced 26 June 2004 (s 2 (1))

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 3 pt 3.4
notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 3 pt 3.4 commenced 9 April 2004 (s 2 (1))

Statute Law Amendment Act 2004 A2004-42 sch 1 pt 1.4
notified LR 11 August 2004
s 1, s 2 commenced 11 August 2004 (LA s 75 (1))
amdt 1.10, amdt 1.11 commenced 30 September 2004(s 2 (2) and see Litter Act 2004 A2004-47, s 2 and CN2004-22)
sch 1 pt 1.4 remainder commenced 25 August 2004 (s 2 (1))

Litter Act 2004 A2004-47 sch 1
notified LR 16 August 2004
s 1, s 2 commenced 16 August 2004 (LA s 75 (1))
sch 1 commenced 30 September 2004 (s 2 and CN2004-22)

Court Procedures (Consequential Amendments) Act 2004 A2004-60 sch 1 pt 1.40, pt 1.51 (in part)
notified LR 2 September 2004
s 1, s 2 commenced 2 September 2004 (LA s 75 (1))
sch 1 pt 1.40 commenced 10 January 2005 (s 2 and see Court Procedures Act 2004 A2004-59, s 2 and CN2004-29)

Justice and Community Safety Legislation Amendment Act 2005 A2005-5 pt 8
notified LR 23 February 2005
s 1, s 2 commenced 23 February 2005 (LA s 75 (1))
pt 8 commenced 24 February 2005 (s 2 (2))

Crimes Amendment Act 2005 A2005-7 pt 4
notified LR 23 February 2005
s 1, s 2 commenced 23 February 2005 (LA s 75 (1))
pt 4 commenced 24 February 2005 (s 2)

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Domestic Violence and Protection Orders Amendment Act 2005 A2005-13 sch 1 pt 1.12

notified LR 24 March 2005
s 1, s 2 commenced 24 March 2005 (LA s 75 (1))
sch 1 pt 1.12 commenced 25 March 2005 (s 2)

Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.35

notified LR 12 May 2005
s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))
sch 1 pt 3.35 commenced 2 June 2005 (s 2 (1))

Criminal Code (Administration of Justice Offences) Amendment Act 2005 A2005-53 sch 1 pt 1.20

notified LR 26 October 2005
s 1, s 2 commenced 26 October 2005 (LA s 75 (1))
sch 1 pt 1.20 commenced 23 November 2005 (s 2)

Justice and Community Safety Legislation Amendment Act 2005 (No 4) A2005-60 sch 1 pt 1.19

notified LR 1 December 2005
s 1, s 2 taken to have commenced 23 November 2005 (LA s 75 (2))
sch 1 pt 1.19 commenced 22 December 2005 (s 2 (4))

4 Amendment history

The *Magistrates Court (Enforcement of Judgments) Act 1994* No 61 s 28 amended the Act by reversing the order of masculine and feminine pronouns. The amendments have been incorporated in the republication but have not been noted in the amendment history.

Title	
title	am 1985 No 67
Preliminary	
ch 1 hdg	ins A2004-60 amdt 1.181
Preliminary	
pt 1 hdg	om A2004-60 amdt 1.181
Name of Act	
s 1	sub A2003-56 amdt 3.161
Dictionary	
s 2	om 1978 No 46 ins A2004-60 amdt 1.182 am A2005-20 amdt 3.193

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Notes

s 3	om 1994 No 61 ins A2004-60 amdt 1.182 (2), (3) exp 10 January 2006 (s 3 (3))

Offences against Act—application of Criminal Code etc

s 3A	ins A2005-53 amdt 1.107

Magistrates Court and magistrates

ch 2 hdg	ins A2004-60 amdt 1.184

Appointment and jurisdiction of magistrates

pt 2 hdg	renum as pt 2.2 hdg

The court

pt 2.1 hdg	ins A2004-60 amdt 1.184

Constitution of court

s 4	orig s 4 am 1937 No 28; 1953 No 14 sub 1958 No 12 am 1968 No 25; 1972 No 37 om 1974 No 14 (prev s 18) am 1940 No 20; 1985 No 67; ord 1990 No 5; 2001 No 44 amdt 1.2750; A2004-60 amdt 1.195, amdt 1.196 reloc by A2004-60 amdt 1.197 am A2005-20 amdt 3.194

Arrangement of court business

s 5	am 1937 No 28; 1938 No 35; 1951 No 7; 1951 No 12; 1953 No 14;1958 No 12; 1967 No 1; 1968 No 25; 1973 No 48; 1976 No 42; 1980 No 4; 1984 No 62; 1985 No 17; 1985 No 41; 1985 No 67; 1986 No 74; 1989 No 59; 1989 No 60; ord 1990 No 5; 1991 No 38; 1991 No 44; 1992 No 9; 1993 No 4; 1993 No 91; 1994 No 4; 1996 No 6; 1996 No 82; 1997 No 96; 1998 No 67; 1999 No 22 s 18; 1999 No 66 sch 3; 1999 No 79 s 5 sch 3; 2001 No 44 amdt 1.2748 om A2004-60 amdt 1.183 ins A2005-20 amdt 3.195

Appointment and jurisdiction of magistrates

pt 2.2 hdg	(prev pt 2 hdg) renum A2004-60 amdt 1.184

Magistrates other than special magistrates

div 2.2.1 hdg	(prev pt 2 div 1 hdg) ins 1977 No 4 am 1985 No 67 renum as div 2.1 hdg R8 LA sub and renum A2004-60 amdt 1.186 sub A2005-20 amdt 3.196

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Meaning of *magistrate* in div 2.2.1

s 6	sub 1951 No 12 am ord 1990 No 5 om A2004-60 amdt 1.183 ins A2005-20 amdt 3.196

Meaning of *magistrate* in div 2.2.1

s 6A hdg	sub A2004-60 amdt 1.187
s 6A	ins 1977 No 4 am 1985 No 67 om A2005-20 amdt 3.196

Appointment of Chief Magistrate and other magistrates

s 7	sub 1949 No 13 am 1951 No 7; 1951 No 12; 1973 No 48 sub 1977 No 4; 1985 No 67 am ord 1990 No 5 sub A2005-20 amdt 3.196

Eligibility for appointment as magistrate

s 7A	ins A2005-20 amdt 3.196

Seniority of magistrates

s 7B	ins A2005-20 amdt 3.196

Conditions of appointment of magistrates

s 7C	ins A2005-20 amdt 3.196

Term of appointment of magistrates

s 7D	ins A2005-20 amdt 3.196

Acting Chief Magistrate

s 7E	ins A2005-20 amdt 3.196

Retirement

s 7F	ins A2005-20 amdt 3.196

Magistrates not to do other work

s 7G	ins A2005-20 amdt 3.196

Rights of public servants

s 7H	ins A2005-20 amdt 3.196

Special magistrates

div 2.2.2 hdg	(prev pt 2 div 2 hdg) ins 1977 No 4 renum as div 2.2 hdg R8 LA renum A2004-60 amdt 1.189 sub A2005-20 amdt 3.197

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Appointment of special magistrates

s 8	am 1949 No 13 sub 1977 No 4 am 1997 No 96 sub A2005-20 amdt 3.197

Term of appointment of special magistrates

s 8A	ins 1973 No 48 om 1977 No 4 ins A2005-20 amdt 3.197

Conditions of appointment of special magistrates

s 8B	ins 1973 No 48 om 1977 No 4 ins A2005-20 amdt 3.197

Registrar and other court officers

div 2.2.3 hdg	(prev pt 2 div 3 hdg) ins 1977 No 4 am 1985 No 67; 1991 No 44 renum as div 2.3 hdg R8 LA sub and renum A2004-60 amdt 1.190 sub A2005-20 amdt 3.198

Appointment of registrar etc

s 9	sub 1977 No 4 am 1985 No 67 om A2005-20 amdt 3.196 ins A2005-20 amdt 3.198

Staff assisting registrar

s 9A	ins A2005-20 amdt 3.198

Registrar's functions

s 9B	ins A2005-20 amdt 3.198

Terms and conditions of appointment

s 10	am 1938 No 35; 1973 No 48 sub 1977 No 4 am ord 1990 No 5 sub 1997 No 41 om A2005-20 amdt 3.196

Tenure of office

s 10A	ins 1977 No 4 om A2005-20 amdt 3.196

Resignation

s 10B	ins 1977 No 4 am ord 1990 No 5 om A2005-20 amdt 3.196

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Acting Chief Magistrate

s 10C	ins 1977 No 4 am 1985 No 67; ord 1990 No 5 om A2005-20 amdt 3.196

Retirement

s 10D	ins 1977 No 4 sub 1994 No 10 om A2005-20 amdt 3.196

Magistrates not to undertake other work

s 10E	ins 1977 No 4 am 1993 No 4; 1996 No 6 om A2005-20 amdt 3.196

Rights of public servants

s 10F	ins 1977 No 4 sub 1994 No 38 om A2005-20 amdt 3.196

Arrangement of business of courts

s 10G	ins 1977 No 4 am 1985 No 67; 1986 No 74; 1994 No 66 sub 1999 No 12 am 1999 No 61 s 6; 1999 No 64 s 4 sch 2; A2004-60 amdt 1.188 om A2005-20 amdt 3.196

Appointment of special magistrates

s 10H	ins 1977 No 4 am ord 1990 No 5 om A2005-20 amdt 3.197

Tenure of office

s 10J	ins 1977 No 4 sub 1994 No 10 am 1996 No 6 om A2005-20 amdt 3.197

Resignation

s 10K	ins 1977 No 4 am ord 1990 No 5 om A2005-20 amdt 3.197

Terms and conditions of appointment

s 10L	ins 1977 No 4 am ord 1990 No 5 sub 1997 No 41 om A2005-20 amdt 3.197

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Appointment of registrar etc

s 10M hdg	am 1991 No 44
s 10M	ins 1977 No 4 am 1985 No 67; 1991 No 44 sub 1993 No 4 om A2005-20 amdt 3.198

Staff assisting registrar

s 10MA	ins 1994 No 38 om A2005-20 amdt 3.198

Duties of registrar

s 10N hdg	am 1991 No 44
s 10N	ins 1977 No 4 am 1991 No 44 om A2005-20 amdt 3.198

Jurisdiction of magistrates

div 2.2.4 hdg	(prev pt 2 div 4 hdg) ins 1977 No 4 renum as div 2.4 hdg R8 LA renum A2004-60 amdt 1.191

Oath etc of office

s 10P	ins 1977 No 4 am ord 1990 No 5; 2001 No 44 amdt 1.2749 sub A2005-20 amdt 3.199

Acts done beyond ACT

s 10Q	renum as s 11

Acts done beyond ACT

s 11 hdg	am 1991 No 44
s 11	orig s 11 am 1991 No 44; 1994 No 61; 1996 No 6 reloc to Magistrates Court Rules 1932, pt 19 as rule 99 by A2005-20 amdt 3.202 (prev s 10Q) ins 1977 No 4 am A2005-20 amdt 3.200 renum A2005-20 amdt 3.201

Acts by magistrate out of court etc

s 12 hdg	am 1991 No 44
s 12	am 1937 No 28; 1986 No 74; 1991 No 44; 1996 No 6 sub A2005-20 amdt 3.203

Issue of warrant of commitment etc after case decided

s 13	am 1991 No 44; 1994 No 61 sub A2005-20 amdt 3.203

Warrants of execution after appeal

s 14	om 1972 No 37

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Process not invalid only because of death of magistrate etc

s 15 hdg	am 1991 No 44
s 15	am 1991 No 44; 1994 No 61 sub A2005-20 amdt 3.204

Order instead of mandamus

s 16	am 1937 No 28; 1977 No 4; 1991 No 44; 1996 No 6; A2004-60 amdt 1.192

Magistrates may exercise functions of justices of peace

s 17 hdg	sub A2005-20 amdt 3.205
s 17	am 1937 No 28; ord 1990 No 5

Protection of magistrates in execution of their office

pt 2.3 hdg	ins A2004-60 amdt 1.193

Magistrate sued for act not within jurisdiction

s 17A	(prev s 231) am 1937 No 28; 1953 No 14; 1994 No 61 reloc by A2004-60 amdt 1.370 am A2005-20 amdt 3.206, amdt 3.207

Magistrate sued for act not within jurisdiction

s 17B	(prev s 232) reloc by A2004-60 amdt 1.370

Warrant or writ by magistrate on order of court

s 17C	(prev s 233) am 1994 No 61 reloc by A2004-60 amdt 1.370

No action for acts done under Supreme Court order

s 17D	(prev s 234) am 1937 No 28 reloc by A2004-60 amdt 1.370 sub A2005-20 amdt 3.208

No action if proceeding confirmed on appeal

s 17E	(prev s 235) am 1994 No 61 reloc by A2004-60 amdt 1.370

Actions in cases prohibited

s 17F	(prev s 236) am 1937 No 28 reloc by A2004-60 amdt 1.370 am A2005-20 amdt 3.209

Payment into court

s 17G	(prev s 239) am 1937 No 28; 1986 No 74 reloc by A2004-60 amdt 1.370 sub A2005-20 amdt 3.210

No action against magistrate for judicial acts in Magistrates Court

s 17H	(prev s 240) am 1985 No 67 reloc by A2004-60 amdt 1.370

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Magistrate sued for acts within magistrate's jurisdiction only liable in case of malice and absence of reasonable and probable cause

s 17I	(prev s 241) reloc by A2004-60 amdt 1.370 am A2005-20 amdt 3.211

Verdict for defendant

s 17J	(prev s 242) am 1937 No 28; 1986 No 74 sub 1996 No 6 reloc by A2004-60 amdt 1.370

Damages

s 17K	(prev s 243) am 1966 No 2 sub 1994 No 61 reloc by A2004-60 amdt 1.370

Criminal proceedings

ch 3 hdg	ins A2004-60 amdt 1.198

Magistrates Court

pt 3 hdg	sub 1985 No 67 om A2004-60 amdt 1.194

Preliminary

pt 3.1 hdg	ins A2004-60 amdt 1.198

Establishment of Magistrates Court

div 3.1 hdg	(prev pt 3 div 1 hdg) am 1985 No 67 renum R8 LA om A2004-60 amdt 1.194

Constitution of court

s 18	reloc as s 4

Jurisdiction of Magistrates Court

div 3.2 hdg	(prev pt 3 div 2 hdg) am 1985 No 67 renum R8 LA om A2004-60 amdt 1.199

Definitions for ch 3

s 18A	ins A2004-60 amdt 1.198 def ***administrator*** ins A2004-60 amdt 1.198 def ***Crimes Act*** ins A2004-60 amdt 1.198 def ***decision*** ins A2004-60 amdt 1.198 def ***defendant*** ins A2004-60 amdt 1.198 def ***escort*** ins A2004-60 amdt 1.198 def ***superintendent*** ins A2004-60 amdt 1.198

Criminal jurisdiction

pt 3.2 hdg	ins A2004-60 amdt 1.199

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Jurisdiction of court

s 19 am 1937 No 28; 1985 No 67; 1986 No 74; ord 1990 No 5; 1999 No 66 sch 3; 2001 No 44 amdt 1.2751; 2001 No 56 amdt 3.447, amdt 3.448; A2004-60 amdt 1.200; A2005-20 amdt 3.212

Civil jurisdiction of the court

s 20 am 1936 No 13; 1967 No 1; 1969 No 12; 1977 No 4
om 1986 No 74

Civil jurisdiction of court in action for nuisance

s 20A ins 1961 No 2
am 1967 No 1
om 1986 No 74

Jurisdiction of court if defendant absent from ACT

s 21 am 1937 No 28; 1958 No 12; 1986 No 74; 1996 No 6

Ex parte order may be set aside

s 23 am 1970 No 15
sub 1974 No 14
am 1979 No 33; 1986 No 74; 1989 No 60; 1991 No 44; 1991 No 112; 1993 No 4; 1993 No 48; 1998 No 25; A2004-60 amdts 1.201-1.209
reloc to Magistrates Court Rules 1932, pt 4 as rule 10 by A2004-60 amdt 1.210

Ex parte conviction may be set aside on application by informant

s 23AA ins 1982 No 3
am A2004-60 amdts 1.211-1.215
reloc to Magistrates Court Rules 1932, pt 4 as rule 11 by A2004-60 amdt 1.216

Requests under conventions regarding legal proceedings in civil and commercial matters

s 23A ins 1932 No 21
om A2004-60 amdt 1.217

Rectification of certain orders etc

s 23B ins 1985 No 18
am 1991 No 44; A2004-60 amdt 1.218; A2005-20 amdt 3.213, amdt 3.214

Beginning criminal proceedings

pt 3.3 hdg (prev pt 4 hdg) sub and renum A2004-60 amdt 1.219

Beginning criminal proceedings—general

div 3.3.1 hdg (prev pt 4 div 1 hdg) renum as div 4.1 hdg R8 LA
sub and renum A2004-60 amdt 1.220

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Cases excepted from court's jurisdiction

s 24	om 1986 No 74

Removal of civil cases to the Supreme Court

s 24A	ins 1937 No 28 om 1986 No 74

Procedure after removal of cases

s 24B	ins 1937 No 28 am 1953 No 14; 1980 No 10; 1985 No 67 om 1986 No 74

Informations

s 25	sub 1974 No 14 am 1986 No 74; 1996 No 6 sub A2005-20 amdt 3.215

Informations

div 3.3.2 hdg	(prev pt 4 div 2 hdg) renum as div 4.2 hdg R8 LA renum A2004-60 amdt 1.221

Laying of informations

s 26	am 1991 No 38; 1993 No 4; 1994 No 4

Description of people and property and of offences

s 27	am ord 1990 No 5

Authority to appear etc in place of informant

s 27A	ins 1974 No 14 om 1985 No 17

Form of information

s 30	sub A2005-20 amdt 3.216

Limitation of proceedings

s 31	am 1989 No 59; ord 1990 No 5; 1996 No 6; 1999 No 59 s 3 om 2001 No 63 s 58

Commencement of action by entry of complaint

s 32	am 1961 No 2 om 1986 No 74

Complaint may be for 1 or more matters

s 33	am 1967 No 1; 1969 No 12; 1977 No 4 om 1986 No 74

Demands not to be divided into 2 suits or complaints

s 34	om 1986 No 74

Infant may sue

s 35	am 1974 No 47 om 1986 No 74

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Copy of information or complaint
s 36 om 1986 No 74

Summonses
div 3.3.3 hdg (prev pt 4 div 4 hdg) renum as div 4.4 hdg R8 LA
renum A2004-60 amdt 1.221

When magistrate may issue summons
s 37 am 1986 No 74; 1989 No 55; ord 1990 No 5; 1991 No 38; 1993 No 4; 1996 No 6

Form of summons
s 38 am 1937 No 28; 1979 No 33; 1986 No 74; 1996 No 6

Ex parte proceedings
s 39 om 1986 No 74

Signature and contents of summons
s 40 am 1979 No 33
om 1996 No 6

Service of summons
s 41 sub 1937 No 28
am 1953 No 14; 1986 No 74; 1991 No 44; ss renum R10 LA; A2005-20 amdt 3.217

Warrants
div 3.3.4 hdg (prev pt 4 div 5 hdg) renum as div 4.5 hdg R8 LA
renum A2004-60 amdt 1.221
sub A2005-20 amdt 3.218

Issue of warrant and summons
s 42 am 1974 No 14, 1979 No 33; ss renum R10 LA
sub A2005-20 amdt 3.219

Procedure on filing indictment
s 43 am 1937 No 28; ord 1990 No 5; 1992 No 9; 1996 No 6

Warrants to be signed and, where so required, sealed
s 46 om 1996 No 6

Form of arrest warrant
s 47 am 1998 No 67
sub A2005-20 amdt 3.220

Sunday warrants
s 49 am A2005-20 amdt 3.221

Bail of persons arrested without a warrant
s 50 am 1991 No 44
om 1992 No 9

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Hearings generally to be in public
s 51 reloc as s 310

Exclusion of strangers
s 52 om 1996 No 6

Hearing of criminal proceedings
pt 3.4 hdg (prev pt 5 hdg) sub and renum A2004-60 amdt 1.222

Hearing of criminal proceedings—general
div 3.4.1 hdg (prev pt 5 div 1 hdg) renum as div 5.1 hdg R8 LA
sub and renum A2004-60 amdt 1.223

Conduct of case generally
s 53 am 1986 No 74; 1996 No 6
sub A2005-20 amdt 3.222

If both parties present in court to hear case
s 54 am 1986 No 74; 1991 No 79; 1993 No 2; 1996 No 6
sub A2005-20 amdt 3.222

Interpreter
s 54AA ins 1991 No 79
om 1993 No 2

Record of proceedings
s 54A reloc as s 316

Warrants for witnesses
div 3.4.2 hdg (prev pt 5 div 2 hdg) renum as div 5.2 hdg R8 LA
sub and renum A2004-60 amdt 1.232
sub A2005-20 amdt 3.223

Examination to be on oath
s 55 om A2005-20 amdt 3.224

Power to order witnesses out of Court
s 56 am 1986 No 74
om 1996 No 6

Husband or wife of complainant or defandant to be competent witness
s 57 om 1986 No 74

Defendant and husband or wife, when competent in criminal proceedings
s 58 om A2004-2 amdt 2.14

Proof of negative etc
s 59 am ord 1990 No 5
om A2004-15 amdt 3.20

Record of proceedings and transcript
s 60 reloc as s 317

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Informant may request witnesses to attend

s 60A	ins 1996 No 6 reloc to Magistrates Court Rules 1932, pt 4 as rule 12 by A2004-60 amdt 1.239

Power of magistrate to summon witnesses

s 61 hdg	sub A2004-60 amdt 1.240
s 61	am 1986 No 74 sub 1996 No 6 am A2004-60 amdt 1.241 reloc to Magistrates Court Rules 1932, pt 4 as rule 13 by A2004-60 amdt 1.242

Service of subpoena on witness

s 62 hdg	am A2004-60 amdt 1.243
s 62	sub 1937 No 28; 1996 No 6 am A2004-60 amdt 1.243, amdt 1.244 reloc to Magistrates Court Rules 1932, pt 4 as rule 14 by A2004-60 amdt 1.245

Witnesses entitled to claim expenses

s 62A	ins 1996 No 6 reloc to Magistrates Court Rules 1932, pt 4 as rule 15 by A2004-60 amdt 1.246

Warrant to bring witness to court

s 63	am 1967 No 1 sub 1996 No 6 am A2004-60 amdts 1.247-1.249 (2), (3) exp 1 July 2006 (s 63 (3))

Warrant in the first instance

s 64	am A2004-60 amdt 1.250

Refusal of witness to be examined

s 65	am 1976 No 42; 1986 No 74 om 1994 No 61

Production of documents before magistrate

s 66	am 1937 No 28; A2004-60 amdts 1.251-1.253 reloc to Magistrates Court Rules 1932, pt 4 as rule 16 by A2004-60 amdt 1.254

Setting aside summons

s 66A	ins 1987 No 56 am A2004-60 amdt 1.255, amdt 1.256 reloc to Magistrates Court Rules 1932, pt 4 as rule 17 by A2004-60 amdt 1.257

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Person about to leave ACT may be ordered to be examined or produce documents

s 67	reloc as s 318

Examination of witnesses—application of Magistrates Court (Civil Jurisdiction) Act

s 67A	ins 1986 No 74 am ord 1990 No 5; 1995 No 46 om A2004-60 amdt 1.262

Affidavits—application of Magistrates Court (Civil Jurisdiction) Act

s 67B	ins 1986 No 74 am ord 1990 No 5; 1995 No 46 om A2004-60 amdt 1.262

Witnesses' rights and liabilities

s 68	reloc as s 319

Depositions to be delivered to registrar

s 69	reloc as s 320

Remand

div 3.4.3 hdg	(prev pt 5 div 3 hdg) renum as div 5.3 hdg R8 LA renum A2004-60 amdt 1.270

Remand of defendant

s 70	am 1977 No 61; 1996 No 6 sub 1996 No 82 am 1998 No 67 sub A2004-14 amdt 2.4

Verbal remand

s 71	am 1996 No 6 om 1996 No 82

Hearing of bail applications

s 72A	ins 1999 No 22 s 21 am 2000 No 17 s 3 sch 1; A2003-48 amdt 2.10

Defendant's appearance in proceeding other than bail proceeding

s 72B	ins 1999 No 22 s 21 am A2004-60 amdt 1.271

Bail of defendant during examination

s 73	am 1992 No 9

Committal and recognisance

div 3.4.4 hdg	(prev pt 5 div 4 hdg) renum as div 5.4 hdg R8 LA renum A2004-60 amdt 1.272

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Extended application of div 3.4.4
s 73A ins 1986 No 74
am 1995 No 46
sub A2004-60 amdt 1.273

Committal or detention before decision
s 74 am 1996 No 6; 1996 No 82

Committal of witness or of defendant after decision
s 75 sub 1976 No 42
am 1996 No 82

Witnesses may be discharged on recognisance
s 76 am 1986 No 74; 1994 No 61; A2004-60 amdt 1.274

Recognisances
s 77 am 1970 No 15; 1992 No 9

Issue of warrant for non-appearance
s 78 am 1992 No 9; A2004-60 amdt 1.275; A2005-20 amdt 3.225

Recognisances taken out of court
s 79 am 1974 No 14; 1976 No 42; 1991 No 44; 1992 No 9; 1996 No 6
sub A2005-20 amdt 3.226

Forfeited recognisances—how enforced
s 80 am 1974 No 14; 1984 No 62; 1986 No 53; ord 1990 No 5; 1992 No 9; 1996 No 6

Arrest of principal by sureties
s 81 am 1937 No 28; 1976 No 42
om 1992 No 9

Conveying people to custody
s 82 am 1976 No 42; 1996 No 82

Adjournment of criminal proceedings
div 3.4.5 hdg (prev pt 5 div 5 hdg) renum as div 5.5 hdg R8 LA
sub and renum A2004-60 amdt 1.276

Particular cases may be adjourned
s 84 am 1986 No 74; 1992 No 9; 1996 No 6; A2005-20 amdt 3.227

Proceeding if either party not present at adjourned hearing
s 85 am 1986 No 74; 1996 No 6
sub A2005-20 amdt 3.228

Proceeding if both parties present at adjourned hearing
s 86 am 1996 No 6
sub A2005-20 amdt 3.228

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Witness to attend adjourned etc hearing

s 87	am 1977 No 61 sub A2005-20 amdt 3.228

Postponement of hearing

s 88	am 1986 No 74; 1991 No 44

Proceedings for indictable offences

pt 3.5 hdg	(prev pt 6 hdg) sub and renum A2004-60 amdt 1.277

Preliminary

div 3.5.1 hdg	(prev pt 6 div 1A hdg) ins 1987 No 56 renum as div 6.1A hdg R8 LA renum A2004-60 amdt 1.278

Meaning of *jury* in pt 3.5

s 88A hdg	sub A2004-60 amdt 1.279
s 88A	ins 1987 No 56

Indictable offences—beginning of proceedings

div 3.5.2 hdg	(prev pt 6 div 1 hdg) renum as div 6.1 hdg R8 LA sub and renum A2004-60 amdt 1.280

Disobedience of summons

s 89	am 1977 No 61 sub A2005-20 amdt 3.229

Accused person may be excused from attendance before court

s 89A	ins 1977 No 61 am 1987 No 56; 1992 No 9; 1996 No 6; A2005-20 amdt 3.230, amdt 3.231

Procedure if informant proposes to tender written statements to court

s 90	sub 1958 No 12 am 1967 No 1 sub 1974 No 14 am 1977 No 61; 1991 No 44; 1996 No 6; A2005-20 amdt 3.232

Written statements may be admitted in evidence

s 90AA	ins 1974 No 14 am 1991 No 44; 1996 No 6; A2005-20 amdt 3.233, amdt 3.234; ss renum R29 LA (see A2005-20 amdt 3.235)

Preliminary examination if written statements not tendered

s 90AB	ins 1974 No 14 am 1977 No 61; 1996 No 6 sub A2005-20 amdt 3.236

Attendance not required under s 90AA or s 90AB if order made under s 89A

s 90ABA hdg	sub A2005-20 amdt 3.237
s 90ABA	ins 1977 No 61

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Plea of guilty in committal proceeding

s 90A ins 1958 No 12
am 1985 No 41; ord 1990 No 5; 1996 No 6; ss renum R10 LA; A2004-60 amdt 1.281; A2005-20 amdts 3.238-3.240; ss renum R29 LA (see A2005-20 amdt 3.241)

Court may discharge accused

s 91 am 1974 No 14; 1987 No 56
sub A2005-20 amdt 3.242

Proceeding if evidence sufficient to put accused on trial

s 92 am 1951 No 12; 1958 No 12; 1967 No 1; 1974 No 14; 1977 No 61; 1985 No 41; 1986 No 74; 1987 No 56

Committal for sentence for indictable offence tried summarily

s 92A ins 1974 No 14

Depositions as evidence

s 92B ins 1985 No 41

Admissions and confessions

s 93 am 1958 No 12; 1967 No 1; 1996 No 6; A2005-20 amdt 3.243

Indictable offences—proceedings after hearing of evidence

div 3.5.3 hdg (prev pt 6 div 2 hdg) renum as div 6.2 hdg R8 LA
sub and renum A2004-60 amdt 1.282

Discharge or committal for trial

s 94 am 1937 No 28; 1976 No 42; 1987 No 56; 1996 No 6
sub A2005-20 amdt 3.244

Depositions of dead or absent people

s 95 sub 1958 No 12
am 1967 No 1; 1989 No 59; 1996 No 6; A2004-60 amdt 1.283, amdt 1.284; A2005-20 amdt 3.245

Indictable offences—costs

div 3.5.4 hdg (prev pt 6 div 2A hdg) ins 1984 No 9
renum as div 6.2A hdg R8 LA
sub and renum A2004-60 amdt 1.285

Discontinued proceeding

s 97 am 1937 No 28
om 1958 No 12
ins 1984 No 9
am 1987 No 56

Indictable offences—witness recognisances

div 3.5.5 hdg (prev pt 6 div 3 hdg) am 1992 No 9
renum as div 6.3 hdg R8 LA
sub and renum A2004-60 amdt 1.286

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Bail in capital offences
s 98 am 1937 No 28
om 1989 No 59

Admission of persons committed for trial to bail
s 99 am 1937 No 28; 1976 No 42; 1989 No 59
om 1992 No 9

Admission of persons committed for trial and are in prison awaiting trial to bail
s 100 am 1937 No 28; 1976 No 42; 1989 No 59
om 1992 No 9

Recognisances to be transmitted to Crown Solicitor
s 101 am 1967 No 1; 1976 No 42; 1985 No 17
om 1992 No 9

Warrant of deliverance
s 102 am 1976 No 42
om 1992 No 9

Recognisance of witnesses etc
s 103 am 1974 No 14; 1996 No 6

Court may commit noncompliant witness
s 105 am 1976 No 42
sub A2005-20 amdt 3.246

Indictable offences—other provisions
div 3.5.6 hdg (prev pt 6 div 4 hdg) renum as div 6.4 hdg R8 LA
sub and renum A2004-60 amdt 1.287

Meaning of *certified copy* of depositions in div 3.5.6
s 105A ins A2004-60 amdt 1.288
sub A2005-20 amdt 3.247

Giving depositions etc to director of public prosecutions
s 106 am 1967 No 1; 1985 No 17; 1985 No 41; 1992 No 9; A2005-20 amdt 3.248

Giving documents to proper officer of court
s 107 am 1967 No 1; 1985 No 17; 1996 No 6; 1999 No 66 sch 3; A2005-20 amdt 3.249

Accused person may obtain copies of depositions etc
s 108 am 1967 No 1; 1999 No 66 sch 3
sub A2005-20 amdt 3.250

Proceedings for offences punishable summarily
pt 3.6 hdg (prev pt 7 hdg) renum A2004-60 amdt 1.289

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Indictable offences dealt with summarily

s 108A	ins 1985 No 41 am A2004-60 amdt 1.290

Dismissal or adjournment in absence of informant

s 109	sub 1996 No 6 am A2005-20 amdt 3.251

Hearing in absence of defendant

s 110 hdg	sub A2005-20 amdt 3.252
s 110	am 1974 No 14; 1986 No 83; 1989 No 59; 1996 No 6; A2005-20 amdts 3.253-3.256

Adjournment if defendant does not appear

s 111	sub A2005-20 amdt 3.257

Both parties appearing

s 112	am 1996 No 6 om A2005-20 amdt 3.258

If defendant does not admit the case

s 114	am 1937 No 28 sub A2005-20 amdt 3.259

Conduct of summary proceeding

s 115	am 1996 No 6 sub A2005-20 amdt 3.259

Conduct of summary proceedings regulated

s 116	am 1996 No 6 om A2005-20 amdt 3.259

Service and pleading by post for certain offences

pt 3.7 hdg	(prev pt 7A hdg) ins 1974 No 14 sub 1979 No 33 renum A2004-60 amdt 1.291

Definitions for pt 3.7

s 116A hdg	sub A2004-60 amdt 1.292
s 116A	ins 1974 No 14 sub 1979 No 33 am ord 1990 No 5; 1993 No 4; 1996 No 6; 1998 No 54; 1999 No 79 sch 3; A2004-60 amdt 1.294 sub A2005-20 amdt 3.260 def ***defendant*** ins A2005-20 amdt 3.260 def ***law in force in the ACT*** ins A2004-60 amdt 1.293 sub A2005-20 amdt 3.260 def ***prescribed offence*** am A1984-10 s 2; ord 1990 No 5 sch 1 sub A1993-4 s 10 om A1999-79 sch 3

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Meaning of *prescribed offence* for pt 3.7

s 116AA hdg	sub A2004-60 amdt 1.295
s 116AA	ins 1999 No 79 s 5 sch 3
	am 2001 No 62 amdts 1.1-1.3; A2004-60 amdt 1.296; A2005-20 amdt 3.261

Service of summons for prescribed offence

s 116B hdg	sub A2004-60 amdt 1.297
s 116B	ins 1974 No 14
	sub 1979 No 33
	am 1993 No 4; A2004-60 amdt 1.298; A2005-20 amdt 3.262, amdt 3.263

Giving of notice by registrar

s 116BA	ins 1993 No 4
	sub A2005-20 amdt 3.264

Proof of service

s 116C	ins 1974 No 14
	sub 1979 No 33
	am 1991 No 44; 1993 No 4; 1996 No 6; A2005-20 amdt 3.265, amdt 3.266

Pleas to prescribed offence

s 116D hdg	sub A2004-60 amdt 1.299
s 116D	ins 1974 No 14
	sub 1979 No 33
	am 1991 No 44; 1993 No 4

Procedure if plea of guilty entered

s 116E	ins 1974 No 14
	sub 1979 No 33
	am 1991 No 44; 1993 No 4

Procedure if notice of intention to defend given

s 116F	ins 1974 No 14
	sub 1979 No 33
	am 1991 No 44; 1993 No 4

Procedure if defendant pleads not guilty

s 116FA	ins 1989 No 59

Procedure if defendant does not plead

s 116G	ins 1974 No 14
	sub 1979 No 33
	am 1989 No 59; 1991 No 44; 1993 No 4

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Restricted penalties under pt 3.7

s 116H hdg	sub A2004-60 amdt 1.300
s 116H	ins 1974 No 14
	sub 1979 No 33; 1993 No 4
	am 1996 No 6; 1998 No 25; A2003-56 amdt 3.162; A2005-20 amdt 3.267, amdt 3.268; ss renum R29 LA (see A2005-20 amdt 3.269)

Consequences of conviction in absence of defendant

s 116I hdg	sub A2005-20 amdt 3.270
s 116I	ins 1974 No 14
	sub 1979 No 33
	am 1991 No 44; 1993 No 4; 1996 No 6; A2004-60 amdt 1.301

Date of conviction

s 116J	ins 1974 No 14
	om 1979 No 33

Infringement notices for certain offences

pt 3.8 hdg	(prev pt 8 hdg) om 1986 No 74
	ins 2001 No 77 s 21
	renum A2004-60 amdt 1.302

Preliminary

div 3.8.1 hdg	ins 2001 No 77 s 21
	renum A2004-60 amdt 1.303

Definitions for pt 3.8

s 117 hdg	sub A2004-60 amdt 1.304
s 117	om 1986 No 74
	ins 2001 No 77 s 21
	def ***another jurisdiction*** ins A2004-47 amdt 1.1
	def ***authorised person*** sub 2002 No 30 amdt 3.587; A2004-60 amdt 1.305
	def ***driver*** ins A2004-47 amdt 1.1
	def ***home address*** ins A2004-47 amdt 1.1
	def ***illegal user declaration*** ins A2004-47 amdt 1.1
	def ***known offender declaration*** ins A2004-47 amdt 1.1
	def ***registered*** ins A2004-47 amdt 1.1
	def ***registered operator*** ins A2004-47 amdt 1.1 om A2005-20 amdt 3.271
	def ***responsible person*** ins A2004-47 amdt 1.1
	def ***sold vehicle declaration*** ins A2004-47 amdt 1.1
	def ***trader's plate*** ins A2004-47 amdt 1.1 om A2005-20 amdt 3.271
	def ***unknown offender declaration*** ins A2004-47 amdt 1.1
	def ***vehicle*** ins A2004-47 amdt 1.1
	def ***vehicle related offence*** ins A2004-47 amdt 1.1

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Purpose and effect of pt 3.8

s 118 hdg	sub A2004-60 amdt 1.306
s 118	om 1986 No 74
	ins 2001 No 77 s 21

Regulations about infringement notice offences

s 119	om 1986 No 74
	ins 2001 No 77 s 21
	am A2003-2 s 70

Infringement and reminder notices

div 3.8.2 hdg	(prev div 8.2 hdg) ins 2001 No 77 s 21
	renum A2004-60 amdt 1.307

Service of infringement notices

s 120	om 1986 No 74
	ins 2001 No 77 s 21
	am A2004-42 amdt 1.8, amdt 1.9
	sub A2004-47 amdt 1.2

Contents of infringement notices

s 121	om 1986 No 74
	ins 2001 No 77 s 21

Additional information in infringement notices

s 122	om 1986 No 74
	ins 2001 No 77 s 21

Time for payment of infringement notice penalty

s 123	sub 1937 No 28
	om 1986 No 74
	ins 2001 No 77 s 21

Extension of time to pay penalty

s 124	om 1986 No 74
	ins 2001 No 77 s 21

Effect of payment of infringement notice penalty

s 125	am 1937 No 28
	om 1986 No 74
	ins 2001 No 77 s 21

Application for withdrawal of infringement notice

s 126	om 1986 No 74
	ins 2001 No 77 s 21

Withdrawal of infringement notice

s 127	sub 1937 No 28
	om 1986 No 74
	ins 2001 No 77 s 21

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Guidelines about withdrawal of infringement notices

s 128	am 1937 No 28 om 1986 No 74 ins 2001 No 77 s 21

Reminder notices

s 129	sub 1967 No 1 am 1980 No 4 om 1986 No 74 ins 2001 No 77 s 21

Contents of reminder notices

s 130	om 1986 No 74 ins 2001 No 77 s 21

Additional information in reminder notices

s 131	om 1986 No 74 ins 2001 No 77 s 21

Additional provisions for vehicle-related offences

div 3.8.3 hdg	(prev div 8.2A hdg) ins A2004-47 amdt 1.3 renum R26 LA

Meaning of *infringement notice*

s 131A	ins A2004-47 amdt 1.3

Service of infringement notice on responsible person for vehicles

s 131B	ins A2004-47 amdt 1.3 am A2004-42 amdt 1.10; ss renum R25 LA (see A2004-60 amdt 1.11)

Liability for vehicle-related offences

s 131C	ins A2004-47 amdt 1.3

Illegal user declarations

s 131D	ins A2004-47 amdt 1.3

Known offender declarations

s 131E	ins A2004-47 amdt 1.3

Sold vehicle declarations

s 131F	ins A2004-47 amdt 1.3

Unknown offender declarations

s 131G	ins A2004-47 amdt 1.3

Disputing liability for infringement notices

div 3.8.4 hdg	(prev div 8.3 hdg) ins 2001 No 77 s 21 sub and renum A2004-60 amdt 1.308 and R26 LA

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Disputing liability for infringement notice offence

s 132	am 1967 No 1; 1969 No 12; 1977 No 4 om 1986 No 74 ins 2001 No 77 s 21

Extension of time to dispute liability

s 133	am 1937 No 28 om 1986 No 74 ins 2001 No 77 s 21

Procedure if liability disputed

s 134	ins 2001 No 77 s 21 am A2004-42 amdt 1.12

Infringement notices—other provisions

div 3.8.5 hdg	(prev div 8.4 hdg) ins 2001 No 77 s 21 sub and renum A2004-60 amdt 1.309 and R26 LA

Authorised people for infringement notice offences

s 134A	ins 1968 No 25 om 1986 No 74 ins 2002 No 30 amdt 3.588

Money recovered by infant or person of unsound mind

s 134B	ins 1968 No 25 am 1978 No 46 om 1986 No 74

Delegation of administering authority's functions

s 135	am 1937 No 28 om 1986 No 74 ins 2001 No 77 s 21 sub 2002 No 30 amdt 3.589

Evidentiary certificates

s 136	om 1986 No 74 ins 2001 No 77 s 21

Default summons

s 137	om 1986 No 74

Service of default summons

s 138	om 1986 No 74

Ground of defence to be in writing lodged with the clerk

s 139	am 1937 No 28; 1958 No 12; 1970 No 15 om 1986 No 74

Trial

s 140	am 1958 No 12; 1970 No 15 om 1986 No 74

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Enforcement of criminal decisions
pt 3.9 hdg (prev pt 9 hdg) sub and renum A2004-60 amdt 1.310

Enforcement of criminal decisions—general
div 3.9.1 hdg (prev pt 9 div 1 hdg) renum R8 LA
sub and renum A2004-60 amdt 1.311

Minute of decision and notice to defendant
s 141 am 1972 No 37; ord 1990 No 5; 1991 No 44; 1993 No 4; 1996 No 6; 1996 No 68; 1998 No 25; 1999 No 91 sch 2; ss renum R10 LA

Formal convictions and orders
s 142 am 1937 No 28; 1991 No 44; A2005-20 amdt 3.272

Consequences if information dismissed
s 143 am 1986 No 74; 1991 No 44
sub A2005-20 amdt 3.273

Copies of informations and other documents
s 144 sub 1967 No 1
am 1980 No 10; 1986 No 74; 1991 No 38; 1991 No 44; 1994 No 4

Imprisonment in first instance
s 145 am 1996 No 6

Enforcement of fines
div 3.9.2 hdg (prev pt 9 div 2 hdg) sub 1994 No 61
am 1998 No 25
renum as div 9.2 hdg R8 LA
renum A2004-60 amdt 1.312

Definitions for div 3.9.2
s 146 hdg sub A2004-60 amdt 1.313
s 146 om 1986 No 57
ins 1989 No 60
sub 1991 No 112
def ***chief police officer*** ins A1998-25 s 8
om A2004-60 amdt 1.314
def ***default notice*** ins A1998-25 s 8
def ***fine*** ins A1998-25 s 8
am A1999-91 sch 2; A2005-20 amdt 3.274
def ***fine defaulter*** ins A1998-25 s 8
def ***government agency*** ins A1998-25 s 8
am A2005-20 amdt 3.275
def ***outstanding fine*** ins A1998-25 s 8
sub A2005-20 amdt 3.276
def ***parking offence*** om A1998-25 s 8

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def ***penalty notice*** ins A1998-25 s 8
def ***Territory entity*** ins A1998-25 s 8
sub A2004-60 amdt 1.315
def ***traffic offence*** am A1993-4 s 21
om A1998-25 s 8

No imprisonment for breach of reparation order
s 146A ins ord 1990 No 1
am 1996 No 6
om 1998 No 25

Payment of fine
s 147 am 1968 No 25; 1977 No 34; 1986 No 74; 1989 No 60; ord 1990 No 5; 1991 No 112; 1992 No 23; 1993 No 4; 1994 No 4; 1994 No 45; 1994 No 61; 1995 No 46
sub 1998 No 25

Notice of address etc
s 147A ins 1989 No 60
am 1991 No 44; 1991 No 112; 1993 No 48
sub 1998 No 25

Access to particulars of address
s 147B ins 1998 No 25

Doubtful service
s 147C ins 1998 No 25

Court may allow time to pay
s 148 am 1974 No 14; 1979 No 33; 1991 No 44; 1998 No 25; ss renum R10 LA; A2005-20 amdt 3.277

Penalty notice
s 149 om 1986 No 74
ins 1998 No 25

Default
s 150 am 1974 No 14; 1977 No 34; 1979 No 33; 1986 No 74; 1989 No 60; 1991 No 112; 1993 No 4; 1999 No 79 s 5 sch 3
sub 1998 No 25
am A2004-60 amdt 1.316

Parking offences—further orders in respect of natural persons
s 150A ins 1989 No 60
am 1991 No 44; 1991 No 112; 1993 No 48
om 1998 No 25

Parking offences—further orders in respect of bodies corporate
s 150B ins 1989 No 60
am 1991 No 44; 1991 No 112; 1993 No 48; 1994 No 61
om 1998 No 25

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Further orders—service

s 150C	ins 1989 No 60 am 1991 No 44 om 1998 No 25

Default notice

s 151	orig s 151 renum as s 185 ins 1998 No 25

Special arrangements

s 152	orig s 152 renum as s 186 ins 1998 No 25

Notice for suspension of driver licence etc

s 153	am 1937 No 28; 1940 No 22; 1989 No 60; 1991 No 44 om 1998 No 25 sub 1999 No 79 s 5 sch 3

Parking offences—instalment payments

s 153A	ins 1989 No 60 am 1991 No 44 om 1998 No 25

Consequence of non-compliance with certain orders

s 153B	ins 1989 No 60 am 1991 No 44 om 1998 No 25

Part payments

s 153C	ins 1989 No 60 am 1991 No 44 om 1998 No 25

Access to personal information

s 154	orig s 154 renum as s 187 ins 1998 No 25

Ascertainment of capacity to pay fine

s 154A	ins 1998 No 25 am A2004-60 amdts 1.317-1.320 reloc to Magistrates Court Rules 1932, pt 4 as rule 18 by A2004-60 amdt 1.321

Garnishee orders and writs of execution

s 154B	ins 1998 No 25 am A2004-60 amdt 1.322, amdt 1.323 reloc to Magistrates Court Rules 1932, pt 4 as rule 19 by A2004-60 amdt 1.324

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Application of Magistrates Court (Civil Jurisdiction) Rules, pt 19

s 154C hdg	sub A2004-60 amdt 1.325
s 154C	ins 1998 No 25
	am A2004-60 amdts 1.326-1.334
	reloc to Magistrates Court Rules 1932, pt 4 as rule 20 by A2004-60 amdt 1.335

Committal to prison—fine defaulters

s 154D	ins 1998 No 25

Fine amounts to be paid to registrar

s 155 hdg	am 1991 No 44
s 155	am 1991 No 44
	sub A2005-20 amdt 3.278

Costs to be paid to clerk by registrar of motor vehicles

s 155A hdg	am 1991 No 44
s 155A	ins 1989 No 60
	am 1991 No 44; 1991 No 112
	om 1998 No 25

Execution to stop on payment

s 156	am 1977 No 34
	sub A2005-20 amdt 3.278

Payment of amount to keeper or superintendent

s 157	am 1976 No 42; 1977 No 34; 1991 No 44; 1998 No 25; A2004-60 amdt 1.336

Fine satisfied by imprisonment

s 158	am 1986 No 74; 1991 No 44
	om 1994 No 61
	ins 1998 No 25

Remission

s 159 hdg	am 1991 No 44
s 159	am 1991 No 44
	om 1994 No 61
	ins 1998 No 25

Conviction or order quashed or set aside

s 160	om 1994 No 61
	ins 1998 No 25
	am 1999 No 79 s 5 sch 3

Other enforcement provisions not affected

s 161	am 1986 No 74
	om 1994 No 61
	ins 1998 No 25

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Procedure on execution

s 162	am 1953 No 14; 1967 No 1; 1991 No 44; 1994 No 81 om 1994 No 61

Warrant of distress after appeal

s 163	om 1972 No 37

Money, Australian notes and bank notes may be seized and choses in action may be seized, sued on and sold

s 164	am ord 1990 No 5 om 1994 No 61

Time of application to be recorded

s 165	am 1953 No 14; 1991 No 44 om 1994 No 61

Warrant of execution, when to be executed

s 166	am 1967 No 1; 1994 No 81 om 1994 No 61

Reciprocal enforcement of fines against bodies corporate

div 3.9.3 hdg	(prev pt 9 div 2A hdg) ins 1982 No 2 renum as div 9.2A hdg R8 LA renum A2004-60 amdt 1.337

Definitions for div 3.9.3

s 166A hdg	sub A2004-60 amdt 1.338
s 166A	ins 1982 No 2 def ***fine*** am A2005-20 amdt 3.279 def ***reciprocating court*** sub A2005-20 amdt 3.280 def ***relevant officer*** am A1991-44 s 7 and sch 1 def ***State*** am A2004-60 amdt 1.339

Declarations relating to reciprocating courts

s 166B	ins 1982 No 2 am 2001 No 44 amdts 1.2752-1.2754; A2005-20 amdt 3.281

Enforcement of fine

s 166C	ins 1982 No 2 am 1991 No 44; 1994 No 61; A2004-60 amdt 1.340, amdt 1.341; A2005-20 amdts 3.282-3.284; ss renum R29 LA (see A2005-20 amdt 3.285)

Effect of enforcement by reciprocating court

s 166D	ins 1982 No 2 am 1991 No 44

Registrar to notify payment of territory fine

s 166E hdg	am 1991 No 44
s 166E	ins 1982 No 2 am 1991 No 44

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Adverse claim to goods seized
s 167 am 1953 No 14
om 1986 No 74

Rules in Interpleader summons
s 168 om 1986 No 74

Right of landlord not affected
s 169 om 1986 No 74

Oral examination of debtor as to debts owing to him
s 170 am 1968 No 25; 1991 No 44
om 1994 No 61

Order nisi for attachment of debt
s 171 am 1937 No 28; 1991 No 44
om 1994 No 61

Service of order nisi to bind debts
s 172 am 1993 No 4
om 1994 No 61

Where garnishee does not dispute debt
s 173 sub 1968 No 25
am 1970 No 15; 1991 No 44
om 1994 No 61

Where garnishee disputes debt
s 174 am 1986 No 74
om 1994 No 61

Issue may be filed
s 175 om 1994 No 61

Where third party claims lien or charge on debt
s 176 om 1994 No 61

Court may order warrant to levy amount or issue to be tried
s 177 om 1994 No 61

Payment by debtor under order to be valid discharge
s 178 am 1937 No 28
om 1994 No 61

Debt attachment book
s 179 am 1991 No 44
om 1994 No 61

Costs of attachment
s 180 om 1994 No 61

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Defendants in civil cases not to be imprisoned except under certain circumstances

s 181 am 1937 No 28; 1991 No 44
om 1994 No 61

Warrant in default of compliance

s 182 am 1991 No 44
om 1994 No 61

Ex parte order of commitment

s 183 am 1991 No 44
om 1994 No 61

Enforcement of criminal decisions—other provisions

div 3.9.4 hdg (prev pt 9 div 6 hdg) renum as div 9.6 hdg R8 LA
sub and renum A2004-60 amdt 1.342

Enforcement of costs against informant

s 184 orig s 184 am 1991 No 44
om 1994 No 61
ins 1998 No 25 s 17

Committal to prison—orders not involving payment of amount

s 185 orig s 185 sub 1967 No 1
om 1972 No 37
(prev s 151) am 1977 No 34; 1996 No 6
renum 1998 No 25
am A2005-20 amdts 3.286-3.288

Warrant of commitment to prison

s 186 orig s 186 om 1994 No 61
(prev s 152) sub 1996 No 6
renum 1998 No 25
am 1998 No 67; ss renum R10 LA

Warrant of commitment if defendant already in prison

s 187 orig s 187 om 1994 No 61
(prev s 154) renum 1998 No 25
am A2005-20 amdt 3.289

Mitigation of payment by court

s 188 am 1967 No 1; 1982 No 3; 1985 No 41; ord 1990 No 5; 1994 No 81

Scale of imprisonment for nonpayment of money

s 189 am 1967 No 1; 1977 No 34; 1978 No 46
sub 1993 No 4
am 1994 No 61
om 1998 No 25

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Proceeds of warrants of execution

s 190	sub 1986 No 74 am ord 1990 No 5; 1991 No 44 om 1994 No 61

Accounts to be kept of amounts received

s 191 hdg	am 2001 No 44 amdt 1.2755 sub A2004-60 amdt 1.343
s 191	am 1967 No 1; 1979 No 33; 1991 No 44; 1994 No 81; 2001 No 44 amdt 1.2756; A2004-60 amdt 1.344, amdt 1.345

Executors and administrators may enforce orders in civil matters

s 192	am 1991 No 44 om 1994 No 61

Forfeited goods may be sold

s 193	am ord 1990 No 5; A2005-20 amdt 3.290

Warrant of commitment or writ of execution not void for form only

s 194	am 1994 No 61

Convictions etc to be given to Supreme Court registrar

s 195	am 1937 No 28; 1992 No 23 sub A2005-20 amdt 3.291

Definitions for pt 10

s 196	am 1937 No 28 sub 1990 No 65 am 1992 No 37; 2000 No 60 s 4 om 2001 No 90 amdt 1.79

Power to make

s 197	sub 1990 No 65 om 2001 No 90 amdt 1.79

Entitlement to apply

s 198	sub 1990 No 65 am 1998 No 38; 2000 No 60 s 5 om 2001 No 90 amdt 1.79

Powers exercisable in care and protection proceedings

s 198A	ins 1999 No 64 s 4 sch 2 om 2001 No 90 amdt 1.79

Special requirements—applications by community advocate or employer

s 198B	ins 2000 No 60 s 6 om 2001 No 90 amdt 1.79

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Hearing dates

s 199	am 1937 No 28
	sub 1990 No 65
	am 1991 No 44
	om 2001 No 90 amdt 1.79

Parties—applications by persons other than aggrieved persons

s 200	am 1937 No 28
	sub 1990 No 65
	am 1998 No 38; 2000 No 60 s 7
	om 2001 No 90 amdt 1.79

Parties—applications involving children

s 201	sub 1990 No 65
	am 1991 No 44
	om 2001 No 90 amdt 1.79

Representation of children

s 202	sub 1990 No 65
	om 2001 No 90 amdt 1.79

Hearing of applications

s 203	sub 1990 No 65
	am 1995 No 46; 1999 No 34
	om 2001 No 90 amdt 1.79

Matters to be taken into account

s 204	sub 1990 No 65
	om 2001 No 90 amdt 1.79

Restrictions in orders

s 205	am 1986 No 74
	sub 1990 No 65
	om 2001 No 90 amdt 1.79

Consent orders

s 206	sub 1990 No 65
	om 2001 No 90 amdt 1.79

Jurisdiction under s 206

s 206AA	ins 1999 No 34
	om 2001 No 90 amdt 1.79

Service of applications

s 206A	ins 1990 No 65
	am 1991 No 44; 2000 No 60 s 8; 2001 No 44 amdt 1.2757
	om 2001 No 90 amdt 1.79

Procedure in absence of respondent

s 206B	ins 1990 No 65
	om 2001 No 90 amdt 1.79

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Interim restraining orders

s 206C ins 1990 No 65
om 2001 No 90 amdt 1.79

Seizure of firearms

s 206D ins 1990 No 65
am 1991 No 9; 1996 No 74; 1997 No 25
om 2001 No 90 amdt 1.79

Explaining proposed orders

s 206E ins 1990 No 65
am 1992 No 37
om 2001 No 90 amdt 1.79

Counselling

s 206F ins 1990 No 65
om 2001 No 90 amdt 1.79

Power of court to make orders where person charged

s 206G ins 1990 No 65
om 2001 No 90 amdt 1.79

Duration of orders

s 206H ins 1990 No 65
om 2001 No 90 amdt 1.79

Exercise of certain powers by registrar

s 206I ins 2001 No 70 amdt 1.67
om 2001 No 90 amdt 1.79

Variation and revocation of orders

s 206J ins 1990 No 65
am 1991 No 44; 1999 No 64 s 4 sch 2
om 2001 No 90 amdt 1.79

Service etc of orders

s 206K ins 1990 No 65
am 1991 No 44; 1996 No 51; 2001 No 44 amdt 1.2758, amdt 1.2759
om 2001 No 90 amdt 1.79

Offence

s 206L ins 1990 No 65
am 1992 No 37; 1994 No 81; 1997 No 25
om 2001 No 90 amdt 1.79

Service other than personal service

s 206M ins 1990 No 65
om 2001 No 90 amdt 1.79

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Service by police officers

s 206N	ins 1990 No 65 am 1991 No 44 om 2001 No 90 amdt 1.79

Restriction on publication of reports of proceedings

s 206P	ins 1990 No 65 am 1994 No 81; 1998 No 38 om 2001 No 90 amdt 1.79

Limits of restriction on publication

s 206PA	ins 1998 No 38 om 2001 No 90 amdt 1.79

Application not invalid only because made under wrong Act

s 206PB	ins 1998 No 38 om 2001 No 90 amdt 1.79

Appeals

s 206Q	ins 1990 No 65 am 1995 No 46 om 2001 No 90 amdt 1.79

Application of Crimes Act

s 206R	ins 1990 No 65 om 2001 No 90 amdt 1.79

Criminal appeals

pt 3.10 hdg	(prev pt 11 hdg) sub 1972 No 37 sub and renum A2004-60 amdt 1.346

Criminal appeals—jurisdiction of Supreme Court

div 3.10.1 hdg	(prev pt 11 div 1 hdg) ins 1972 No 37 renum as div 11.1 hdg R8 LA sub and renum A2004-60 amdt 1.347

Jurisdiction of Supreme Court

s 207	sub 1937 No 28 am 1967 No 1; 1968 No 25 sub 1972 No 37 am 1985 No 67; 1990 No 65; 2001 No 90 amdt 1.80; A2004-60 amdts 1.348-1.350; A2005-5 s 30

Appeals in criminal matters

div 3.10.2 hdg	(prev pt 11 div 2 hdg) ins 1972 No 37 renum as div 11.2 hdg R8 LA sub and renum A2004-60 amdt 1.351

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Appeals to which div 3.10.2 applies

s 208 hdg	sub A2004-60 amdt 1.352
s 208	sub 1937 No 28
	am 1953 No 14; 1958 No 12; 1968 No 25
	sub 1972 No 37
	am 1984 No 16; 1985 No 41; 1985 No 67; 1986 No 33; 1986 No 74; 1990 No 65; 1992 No 9; 1994 No 61; 1996 No 6; A2004-60 amdts 1.353-1.355; A2005-7 s 16; pars renum R27 LA (see A2005-7 s 17)

Appeals in other cases

s 208A	ins 1958 No 12
	am 1967 No 1; 1968 No 25
	om 1972 No 37

Substituted service of notice of appeal

s 208B	ins 1958 No 12
	om 1972 No 37

Institution of appeal

s 209	am 1934 No 17
	sub 1937 No 28
	am 1967 No 1
	sub 1972 No 37
	am 1984 No 61; 1985 No 67
	sub 1986 No 74
	am A2005-5 s 31; A2005-7 s 18

Substituted service of notice of appeal

s 210	am 1934 No 17
	sub 1937 No 28; 1972 No 37

When appeal deemed to be duly instituted

s 211	sub 1937 No 28; 1972 No 37; 1985 No 18
	om 1986 No 74

When appeal deemed to be duly instituted

s 212	sub 1937 No 28; 1958 No 12
	am 1967 No 1
	sub 1972 No 37
	om 1985 No 18

Increase in amount of security

s 213	sub 1937 No 28; 1972 No 37
	om 1985 No 18

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Appeals in cases other than civil cases

s 214	sub 1937 No 28 am 1967 No 1 sub 1972 No 37 am 1984 No 61; 1990 No 65; A2004-60 amdt 1.356; A2005-20 amdt 3.292

Appeals in relation to grant of bail

s 214A	ins 1986 No 33 om 1992 No 9

Appeals in civil cases

s 215	om 1937 No 28 ins 1972 No 37 am 1985 No 67 om 1986 No 74

Stay of execution pending appeal in certain cases

s 216	om 1937 No 28 ins 1972 No 37 am 1984 No 62; 1986 No 74; 1992 No 9; 1995 No 41; A2005-7 s 19

Execution not to be stayed in other cases except by order of Supreme Court

s 217	om 1937 No 28 ins 1972 No 37 om 1986 No 74

Orders by Supreme Court on appeals

s 218	om 1937 No 28 ins 1972 No 37 sub 1984 No 61 am 1985 No 67; A2004-60 amdt 1.357, amdt 1.358

Barring right of appeal under div 3.10.2 if order to review granted

s 219 hdg	sub A2004-60 amdt 1.359
s 219	om 1937 No 28 ins 1972 No 37 am 1985 No 67; 1986 No 74; A2004-60 amdt 1.360, amdt 1.361

Reference appeals in criminal matters

div 3.10.2A	ins A2005-5 s 32

What is a reference appeal?

s 219A	ins A2005-5 s 32

Reference appeal following acquittal on indictment

s 219AB	ins A2005-5 s 32

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Who may be heard at reference appeal
s 219AC ins A2005-5 s 32

Reference appeal decision does not affect trial verdict
s 219AD ins A2005-5 s 32

Orders to review in criminal matters
div 3.10.3 hdg (prev pt 11 div 3 hdg) ins 1972 No 37
renum as div 11.3 hdg R8 LA
sub and renum A2004-60 amdt 1.362

Interpretation
s 219A ins 1972 No 37
om 1994 No 61

Appeals by way of orders to review
s 219B ins 1972 No 37
am 1974 No 14; 1979 No 41; 1984 No 16; 1985 No 41; 1985 No 67; ord 1990 No 9; 1994 No 61; 1996 No 6; pars renum R10 LA; A2004-60 amdts 1.363-1.366; A2005-20 amdt 3.293

Grant of order nisi to review
s 219C ins 1972 No 37
am 1974 No 14; 1979 No 41; 1984 No 61; 1985 No 41; 1985 No 67; ord 1990 No 9; 1996 No 6; pars renum R10 LA; A2005-5 s 33; A2005-20 amdts 3.294-3.296; pars and ss renum R29 LA (see A2005-20 amdt 3.297)

Security for costs and stay of execution
s 219D ins 1972 No 37
am 1985 No 41; 1985 No 67; ord 1990 No 9; 1992 No 9; 1996 No 6; ss renum R10 LA

Non-appearance of applicant
s 219E ins 1972 No 37
am 1996 No 6

Powers of Supreme Court
s 219F ins 1972 No 37
am 1974 No 14; 1979 No 41; 1985 No 41; 1985 No 67; ord 1990 No 9; ss and pars renum R10 LA; A2004-60 amdt 1.367

Interpretation
s 219G ins 1984 No 62
am 1986 No 74
om 1992 No 9

Warrant of apprehension of appellant
s 219H ins 1984 No 62
om 1992 No 9

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Power of Court where person apprehended
s 219J ins 1984 No 62
om 1992 No 9

Effect of apprehension of appellant
s 219K ins 1984 No 62
om 1992 No 9

Stay of execution not affected
s 219L ins 1984 No 62
om 1992 No 9

Criminal appeals—other provisions
div 3.10.4 hdg (prev pt 11 div 4 hdg) ins 1972 No 37
renum as div 11.4 hdg R8 LA
sub and renum A2004-60 amdt 1.368

Forfeiture of recognisance
s 220 am 1937 No 28; 1972 No 37
sub 1984 No 62
om 1992 No 9

Magistrate may order appellant to be liberated
s 221 om 1937 No 28

Control of Supreme Court over summary convictions
s 222 am 1937 No 28; 1985 No 67; 1986 No 74; A2005-20 amdts 3.298-3.300

Amendment of documents
s 223 am 1937 No 28; 1985 No 67; 1986 No 74
sub A2005-20 amdt 3.301

In cases of certiorari
s 224 am 1937 No 28; A2005-20 amdt 3.302

Notice dispensed with
s 225 am 1937 No 28; 1967 No 1; 1985 No 17; A2005-20 amdt 3.302

Power of court to admit to bail
s 226 am 1937 No 28; 1992 No 9; A2005-20 amdt 3.302

Respecting the amendment of convictions etc
s 227 am 1937 No 28; 1985 No 67; 1996 No 6; A2005-20 amdt 3.302

No summons or information
s 228 am 1986 No 74
sub A2005-20 amdt 3.303

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Provisions applicable in relation to security given for costs of appeal

s 230	am 1937 No 28 sub 1972 No 37 am 1985 No 18; 1991 No 44

Magistrate sued for act not within jurisdiction

s 231	reloc as s 17A

No action against magistrate after order nisi to quash conviction has been granted

s 232	reloc as s 17B

Warrant or writ by magistrate on order of court

s 233	reloc as s 17C

No action for acts done under order of Supreme Court

s 234	reloc as s 17D

No action where proceedings confirmed on appeal

s 235	reloc as s 17E

Actions in cases prohibited

s 236	reloc as s 17F

Limitation of actions

s 237	om 1985 No 66

Notice of actions

s 238	om 1985 No 66

Payment of amounts into court

s 239	reloc as s 17G

No action against magistrate for judicial acts in Magistrates Court

s 240	reloc as s 17H

Magistrate sued for acts within his or her jurisdiction only liable in case of malice and absence of reasonable and probable cause

s 241	reloc as s 17I

Verdict for defendant

s 242	reloc as s 17J

Damages

s 243	reloc as s 17K

Costs in criminal matters

pt 3.11 hdg	(prev pt 13 hdg) sub 1953 No 14 am 1994 No 4 sub and renum A2004-60 amdt 1.371

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Award of costs in criminal matters

s 244 hdg	sub A2004-60 amdt 1.372
s 244	am 1937 No 28; 1953 No 14; 1986 No 74; 1994 No 61; A2004-60 amdts 1.373-1.375

Court fees

s 245	sub 1953 No 14; 1980 No 10 am 1991 No 38; 1991 No 44 om 1994 No 4

Remission of fees

s 245A	ins 1937 No 28 sub 1986 No 83 am 1989 No 55; ord 1990 No 5; 1991 No 44; 1993 No 4 om 1994 No 4

Solicitor's costs

s 246	sub 1937 No 28 om 1986 No 74

Witnesses expenses

s 247	sub 1953 No 14; 1967 No 1 am 1996 No 6; A2004-60 amdt 1.376 reloc to Magistrates Court Rules 1932, pt 4 as rule 21 by A2004-60 amdt 1.377

Definitions for pt 13A

s 248	om 1994 No 61 s 49 ins 2001 No 1 s 3 sch am 2001 No 18 s 174 om A2004-60 amdt 1.378

Determination of fees

s 248A	ins 1974 No 14 am 1986 No 53; ord 1990 No 5 om 1992 No 9 ins 1994 No 4 am 1997 No 94; 1998 No 25 sub 2000 No 1 s 3 sch am 2001 No 44 amdt 1.2760 om A2004-60 amdt 1.378

Payment of fees

s 248B	ins 1974 No 14 am 1986 No 53; ord 1990 No 5 om 1992 No 9 ins 1994 No 4 sub 2000 No 1 s 3 sch am 2001 No 44 amdt 1.2761 om A2004-60 amdt 1.378

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Remission, refund, deferral, waiver and exemption of fees

s 248C	ins 1974 No 14 om 1992 No 9 ins 1994 No 4 am 1994 No 45; No. 1995 No 46; 1997 No 96; 1999 No 66 sch 3; 1999 No 64 s 4 sch 2 sub 2000 No 1 s 3 sch am 2002 No 36 s 4 (4), (5) exp 11 October 2003 (s 248C (5)) om A2004-60 amdt 1.378

Recovery of fees in non-criminal proceedings if fees otherwise not payable

s 248D	ins 1974 No 14 am 1986 No 53 om 1992 No 9 ins 1994 No 4 sub 2000 No 1 s 3 sch om A2004-60 amdt 1.378

Recovery of fees in criminal proceedings if fees not otherwise payable

s 248E	ins 1994 No 4 sub 2000 No 1 s 3 sch om A2004-60 amdt 1.378

Review of decisions

s 248F	ins 1994 No 4 am 1996 No 6 sub 2000 No 1 s 3 sch om A2004-60 amdt 1.378

Securities in criminal matters

pt 3.12 hdg	(prev pt 14 hdg) sub and renum A2004-60 amdt 1.379

Securities taken under Act

s 249	am 1991 No 44; A2004-60 amdts 1.380-1.383; A2005-20 amdt 3.304

Recovery of amount due under security

s 250	ins 1937 No 28 am 1986 No 74; 1991 No 44; 1992 No 9; A2004-60 amdt 1.384

Enforcement of payment of sum due by principal

s 251	om 1937 No 28

Sums paid by surety may be recovered from principal

s 252	am 1937 No 28; 1986 No 74; 1992 No 9; A2004-60 amdt 1.384

Payment enforced by security

s 253	am 1992 No 9; A2004-60 amdt 1.384

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Enforcement of recognisance

s 254	sub 1974 No 14 am 1986 No 53; 1986 No 74; ord 1990 No 5; 1991 No 44; 1992 No 9; 1994 No 61

Directions about procedure

s 254A	reloc as s 309

Appearance by audiovisual or audio links

s 254B	reloc as s 311

Contempt in face of court

s 255	reloc as s 290

Failure to give evidence—offence

s 255AA	reloc as s 291

Failure to give evidence—committal

s 255AB	reloc as s 312

Commitment to remand centre

s 255A	reloc as s 313

Registrar to give directions for preparation of transcript

s 255B	reloc as s 314

Applications for transcripts

s 255C	reloc as s 315

Civil proceedings

ch 4 hdg	ins A2004-60 amdt 1.386

Commencement of proceedings

pt 4 hdg	renum as pt 3.3 hdg

Preliminary

pt 4.1 hdg	ins A2004-60 amdt 1.386

General

div 4.1 hdg	renum as div 3.3.1 hdg

Application of ch 4 ((MC (CJ) Act, s 4)

s 256 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 256	am 1967 No 1; 1970 No 15; 1974 No 14; 1979 No 33; 1993 No 4; 2001 No 44 amdts 1.2762-1.2764 (8)-(11) exp 12 September 2002 (s 256 (11)) om A2004-60 amdt 1.412 ins A2004-60 amdt 1.386 am A2005-13 amdt 1.43

Civil jurisdiction

pt 4.2 hdg	ins A2004-60 amdt 1.386

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Informations

div 4.2 hdg renum as pt 3.3.2 hdg

Personal actions at law—amount or value (MC (CJ) Act, s 5)

s 257 hdg bracketed note exp 10 January 2006 (s 3 (3))
s 257 am 1937 No 28
om 1986 No 74
ins 1991 No 38
om 1994 No 4
ins A2004-60 amdt 1.386

Power of court to grant relief (MC (CJ) Act, s 6)

s 258 hdg bracketed note exp 10 January 2006 (s 3 (3))
s 258 am 1932 No 21; 1937 No 28; 1953 No 14; 1986 No 74; ord 1990 No 5; 1991 No 44; 2001 No 44 amdts 1.2765-1.2768
om A2004-60 amdt 1.412
ins A2004-60 amdt 1.386

Rules of equity to prevail (MC (CJ) Act, s 7)

s 259 hdg bracketed note exp 10 January 2006 (s 3 (3))
s 259 ins 1999 No 34
om 2001 No 90 amdt 1.81
ins A2004-60 amdt 1.386

Nuisance (MC (CJ) Act, s 8 (1) and (2))

s 260 hdg bracketed note exp 10 January 2006 (s 3 (3))
s 260 ins A2004-60 amdt 1.386

Disputed debts (MC (CJ) Act, s 9)

s 261 hdg bracketed note exp 10 January 2006 (s 3 (3))
s 261 ins A2004-60 amdt 1.386

Cause of action arising, or defendant resident, outside ACT (MC (CJ) Act, s 10)

s 262 hdg bracketed note exp 10 January 2006 (s 3 (3))
s 262 ins A2004-60 amdt 1.386

Requests under conventions relating to legal proceedings in civil and commercial matters

s 263 ins A2004-60 amdt 1.386

Proceedings affecting title to land (MC (CJ) Act, s 11)

s 264 hdg bracketed note exp 10 January 2006 (s 3 (3))
s 264 ins A2004-60 amdt 1.386

Disputes under Residential Tenancies Act (MC (CJ) Act, s 12A)

s 265 hdg bracketed note exp 10 January 2006 (s 3 (3))
s 265 ins A2004-60 amdt 1.386

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Complaints under Utilities Act, pt 12 (MC (CJ) Act, s 12B)

s 266 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 266	ins A2004-60 amdt 1.386

Case stated for Supreme Court

pt 4.3 hdg	(prev pt 4 div 3 hdg) om A1986-74 ins A2004-60 amdt 1.386

Case stated (MC (CJ) Act, s 194, s 395 (2))

s 267 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 267	ins A2004-60 amdt 1.386

Transfer of proceedings from or to Supreme Court

pt 4.4 hdg	ins A2004-60 amdt 1.386

Summonses

div 4.4 hdg	renum as div 3.3.3 hdg

Transfer of action from Supreme Court (MC (CJ) Act, s 381)

s 268 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 268	ins A2004-60 amdt 1.386

Procedure on transfer of action from Supreme Court (MC (CJ) Act, s 382)

s 269 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 269	ins A2004-60 amdt 1.386

Removal of proceedings into Supreme Court (MC (CJ) Act, s 383)

s 270 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 270	ins A2004-60 amdt 1.386

Stay of proceedings (MC (CJ) Act, s 384)

s 271 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 271	ins A2004-60 amdt 1.386

Civil appeals

pt 4.5 hdg	ins A2004-60 amdt 1.386

Warrants of arrest

div 4.5 hdg	renum as div 3.3.4 hdg

Definitions for pt 4.5 (MC (CJ) Act, s 385)

s 272 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 272	ins A2004-60 amdt 1.386

Jurisdiction (MC (CJ) Act, s 386)

s 273 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 273	ins A2004-60 amdt 1.386

Cases in which appeal may be brought (MC (CJ) Act, s 387)

s 274 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 274	ins A2004-60 amdt 1.386

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Appeals—Small Claims Court (MC (CJ) Act, s 387A)

s 275 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 275	ins A2004-60 amdt 1.386

Evidence on appeal (MC (CJ) Act, s 391)

s 276 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 276	ins A2004-60 amdt 1.386

Powers of Supreme Court on appeal (MC (CJ) Act, s 393)

s 277 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 277	ins A2004-60 amdt 1.386

Small Claims Court

pt 4.6 hdg	ins A2004-60 amdt 1.386

Definitions for pt 4.6 (MC (CJ) Act, s 394)

s 278 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 278	ins A2004-60 amdt 1.386

Small Claims Court (MC (CJ) Act, s 396)

s 279 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 279	ins A2004-60 amdt 1.386

Referees—appointment (MC (CJ) Act, s 397)

s 280 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 280	ins A2004-60 amdt 1.386

Referees—functions (MC (CJ) Act, s 398)

s 281 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 281	ins A2004-60 amdt 1.386

Referees—oath or affirmation of office (MC (CJ) Act, s 399)

s 282 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 282	ins A2004-60 amdt 1.386

Jurisdiction (MC (CJ) Act, s 401)

s 283 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 283	ins A2004-60 amdt 1.386

$10 000 limit (MC (CJ) Act, s 402)

s 284 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 284	ins A2004-60 amdt 1.386

Admissibility of conference proceedings in inquiries (MC (CJ) Act, s 427)

s 285 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 285	ins A2004-60 amdt 1.386

Small Claims Court's seal

s 286	ins A2005-60 amdt 1.108

Miscellaneous

ch 5 hdg	(prev pt 15 hdg) sub and renum A2004-60 amdt 1.387

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Hearing

pt 5 hdg	renum as pt 3.4 hdg

Offences

pt 5.1 hdg	ins A2004-60 amdt 1.387

General

div 5.1 hdg	renum as div 3.4.1 hdg

Evidence

div 5.2 hdg	renum as div 3.4.2 hdg

Remand

div 5.3 hdg	renum as div 3.4.3 hdg

Committal and recognisance

div 5.4 hdg	renum as div 3.4.4 hdg

Adjournment of proceedings

div 5.5 hdg	renum as div 3.4.5 hdg

Contempt in face of court

s 290	(prev s 255) am 1967 No 1; 1972 No 37; ord 1990 No 5 sub 1993 No 4 am 1994 No 66; 1994 No 81; 1999 No 22 s 23; ss renum R10 LA; A2004-60 amdt 1.391 renum A2004-60 amdt 1.392 am A2005-53 amdt 1.108; ss renum R30 LA (see A2005-53 amdt 1.109)

Failure to give evidence—offence

s 291 hdg	(prev s 255AA hdg) sub A2004-60 amdt 1.393
s 291	(prev s 255AA) ins 1994 No 61 am 1995 No 46; 1996 No 6; 1998 No 25; 1998 No 54; A2004-60 amdt 1.394, amdt 1.395 reloc from s 255AA by A2004-60 amdt 1.396 om A2005-53 amdt 1.110

Failure to comply with order in nuisance action (MC (CJ) Act, s 8 (2))

s 292 hdg	ins A2004-60 amdt 1.412 bracketed note exp 10 January 2006 (s 3 (3))
s 292	reloc from Magistrates Court (Civil Jurisdiction) Act 1982 s 8 (2) by A2004-60 amdt 1.450

Failure to comply with Magistrates Court subpoena (MC (CJ) Act, s 187 (7))

s 293 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 293	(1) reloc from Magistrates Court (Civil Jurisdiction) Act 1982 s 187 (7) by A2004-60 amdt 1.488 (2), (3) ins A2004-60 amdt 1.412 om A2005-53 amdt 1.111

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Failure to comply with judgment for delivery of detained goods (MC (CJ) Act, s 217 (4))

s 294 hdg	ins A2004-60 amdt 1.412
	bracketed note exp 10 January 2006 (s 3 (3))
s 294	reloc from Magistrates Court (Civil Jurisdiction) Act 1982 s 217 (4) by A2004-60 amdt 1.502

False or misleading statement by garnishee (MC (CJ) Act, s 329 (2))

s 295 hdg	ins A2004-60 amdt 1.412
	bracketed note exp 10 January 2006 (s 3 (3))
s 295	reloc from Magistrates Court (Civil Jurisdiction) Act 1982 s 329 (2) by A2004-60 amdt 1.524

Obligations of judgment creditor if garnishee pays too much (MC (CJ) Act, s 337 (1))

s 296 hdg	ins A2004-60 amdt 1.412
	bracketed note exp 10 January 2006 (s 3 (3))
s 296	reloc from Magistrates Court (Civil Jurisdiction) Act 1982 s 337 (1) by A2004-60 amdt 1.527

Notice to be given if judgment debtor ceases employment (MC (CJ) Act, s 340 (1))

s 297 hdg	ins A2004-60 amdt 1.412
	bracketed note exp 10 January 2006 (s 3 (3))
s 297	reloc from Magistrates Court (Civil Jurisdiction) Act 1982 s 340 (1) by A2004-60 amdt 1.531

Prejudice to employee

s 298	reloc from Magistrates Court (Civil Jurisdiction) Act 1982 s 341 by A2004-60 amdt 1.535

Interference with seized property etc

s 299	reloc from Magistrates Court (Civil Jurisdiction) Act 1982 s 379 by A2004-60 amdt 1.537

Failure to comply with Small Claims Court subpoena (MC (CJ) Act, s 448 (1))

s 300 hdg	bracketed note exp 10 January 2006 (s 3 (3))
s 300	(1) reloc from Magistrates Court (Civil Jurisdiction) Act 1982 s 448 (1) by A2004-60 amdt 1.563
	(2), (3) ins A2004-60 amdt 1.412
	om A2005-53 amdt 1.112

Witness before Small Claims Court to answer questions

s 301	reloc from Magistrates Court (Civil Jurisdiction) Act 1982 s 449 by A2004-60 amdt 1.568
	om A2005-53 amdt 1.112

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Contravention of Small Claims Court order in trespass proceeding (MC (CJ) Act, s 460 (2))

s 302 hdg	ins A2004-60 amdt 1.412
	bracketed note exp 10 January 2006 (s 3 (3))
s 302	reloc from Magistrates Court (Civil Jurisdiction) Act 1982 s 460 (2) by A2004-60 amdt 1.574

Other

pt 5.2 hdg	ins A2004-60 amdt 1.412

Magistrates Court's seal

s 308	ins A2005-60 amdt 1.109

Directions about procedure

s 309	(prev s 254A) ins 1989 No 59
	reloc by A2004-60 amdt 1.385

Hearings generally to be in public

s 310 hdg	(prev s 51 hdg) sub A2004-60 amdt 1.224
s 310	(prev s 51) am 1986 No 74
	sub 1996 No 6
	am A2004-60 amdts 1.225-1.227
	reloc by A2004-60 amdt 1.228

Appearance by audiovisual or audio links

s 311	(prev s 254B) ins 1999 No 22 s 22
	am 2000 No 17 s 3 sch 1; A2003-48 amdt 2.11; A2004-60 amdt 1.388; ss renum R26 LA (see A2004-60 amdt 1.389)
	reloc by A2004-60 amdt 1.390
	am A2005-20 amdt 3.305

Failure to give evidence—committal

s 312 hdg	(prev s 255AB hdg) sub A2004-60 amdt 1.397
s 312	(prev s 255AB) ins 1994 No 61
	am 1995 No 46; A2004-60 amdts 1.398-1.400
	reloc by A2004-60 amdt 1.401
	sub A2005-53 amdt 1.113

Commitment to remand centre

s 313	(prev s 255A) ins 1976 No 42
	am 1995 No 41; 1996 No 6; 1998 No 25
	reloc by A2004-60 amdt 1.402

Registrar to give directions for preparation of transcript

s 314 hdg	(prev s 255B hdg) am 1991 No 44
s 314	(prev s 255B) ins 1980 No 4
	am 1986 No 71; 1991 No 44; A2004-60 amdt 1.403
	reloc by A2004-60 amdt 1.404

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Applications for transcripts

s 315	(prev s 255C) ins 1980 No 4 am 1986 No 71; 1986 No 83; 1988 No 45; 1991 No 38; 1991 No 44; 1993 No 4; 1994 No 4; 1999 No 22 s 24; A2004-60 amdts 1.405-1.409; ss renum R26 LA (see A2004-60 amdt 1.410) reloc by A2004-60 amdt 1.411

Record of proceedings

s 316 hdg	(prev s 54A hdg) sub A2004-60 amdt 1.229
s 316	(prev s 54A) ins 1980 No 4 am 1985 No 41; 1986 No 71; 1986 No; 1986 No 74; 1986 No 83; ord 1990 No 5; 1991 Nos 44 and 106; 1999 No 22 s 19; 1999 No 66 sch 3; 2000 No 17 s 3 sch 1; ss renum R10 LA; A2003-48 amdt 2.9; A2004-60 amdt 1.230 reloc by A2004-60 amdt 1.231 pars renum R26 LA am A2005-20 amdt 3.306

Record of proceedings and transcript

s 317	(prev s 60) sub 1958 No 12; 1967 No 1 am 1972 No 37 sub 1974 No 14; 1980 No 4 am 1991 No 44; 1999 No 22 s 20; A2004-60 amdts 1.233-1.237 reloc by A2004-60 amdt 1.238

Person about to leave ACT may be ordered to be examined or produce documents

s 318 hdg	(prev s 67 hdg) am A2004-60 amdt 1.258
s 318	(prev s 67) am 1980 No 4; 1986 No 74; 1996 No 6; ss renum R10 LA; A2004-60 amdt 1.259, amdt 1.260 reloc by A2004-60 amdt 1.261

Witnesses' rights and liabilities

s 319	(prev s 68) am 1996 No 6; A2004-60 amdt 1.263, amdt 1.264 reloc by A2004-60 amdt 1.265

Depositions to be given to registrar

s 320 hdg	(prev s 69 hdg) am 1991 No 44
s 320	(prev s 69) am 1958 No 12; 1967 No 1; 1980 No 4; 1991 No 44; A2004-60 amdts 1.266-1.268 reloc by A2004-60 amdt 1.269

Regulation-making power

s 321	ins A2004-60 amdt 1.412

Proceedings in case of indictable offences

pt 6 hdg	renum as pt 3.5 hdg

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Preliminary
div 6.1A hdg renum as div 3.5.1 hdg

Institution of proceedings
div 6.1 hdg renum as div 3.5.2 hdg

Proceedings subsequent to hearing of evidence
div 6.2 hdg renum as div 3.5.3 hdg

Costs
div 6.2A hdg renum as div 3.5.4 hdg

Recognisances of witnesses
div 6.3 hdg renum as div 3.5.5 hdg

Miscellaneous
div 6.4 hdg renum as div 3.5.6 hdg

Proceedings for offences punishable summarily
pt 7 hdg renum as pt 3.6 hdg

Service and pleading by post for certain offences
pt 7A hdg renum as pt 3.7 hdg

Infringement notices for certain offences
pt 8 hdg renum as pt 3.8 hdg

Preliminary
div 8.1 hdg renum as div 3.8.1 hdg

Infringement and reminder notices
div 8.2 hdg renum as div 3.8.2 hdg

Additional provisions for vehicle-related offences
div 8.2A hdg renum as div 3.8.3 hdg

Disputing liability
div 8.3 hdg renum as div 3.8.4 hdg

Miscellaneous
div 8.4 hdg renum as div 3.8.5 hdg

Enforcement of decisions
pt 9 hdg renum as pt 3.9 hdg

General
div 9.1 hdg renum as div 3.9.1 hdg

Enforcement of fines
div 9.2 hdg renum as div 3.9.2 hdg

Reciprocal enforcement of fines against bodies corporate
div 9.2A hdg renum as div 3.9.3 hdg

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Adverse claims
pt 9 div 3 hdg om 1986 No 74

Attachment of debts
pt 9 div 4 hdg om 1994 No 61

Imprisonment of fraudulent debtors
pt 9 div 5 hdg om 1994 No 61

Miscellaneous
div 9.6 hdg renum as div 3.9.4 hdg

Restraining orders
pt 10 hdg sub 1990 No 65
om 2001 No 90 amdt 1.79

Appeals to Supreme Court
pt 11 hdg renum as pt 3.10 hdg

Appellate jurisdiction of Supreme Court
div 11.1 hdg renum as div 3.10.1 hdg

Appeals
div 11.2 hdg renum as div 3.10.2 hdg

Orders to review
div 11.3 hdg renum as div 3.10.3 hdg

Absconding appellants
pt 11 div 3A hdg ins 1984 No 62
om 1992 No 9

General provisions
div 11.4 hdg renum as div 3.10.4 hdg

Protection of magistrates in the execution of their office
pt 12 hdg om A2004-60 amdt 1.369

Costs
pt 13 hdg renum as pt 3.11 hdg

Court and tribunal fees
pt 13A hdg orig pt 13A hdg ins 1974 No 14
om 1992 No 9
ins 1994 No 4
sub 2000 No 1 s 3 sch
om A2004-60 amdt 1.378

Securities
pt 14 hdg renum as pt 3.12 hdg

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Miscellaneous

pt 15 hdg	renum as ch 5 hdg

Transitional

pt 16 hdg	ins 1999 No 34 om 2001 No 90 amdt 1.81

Oath and affirmation of office

sch 1	orig sch 1 am 1937 No 28; 1938 No 25 (as am 1938 No 35); 1938 No 35; 1953 No 14; 1958 No 12; 1966 No 2; 1967 No 1; 1968 No 25; 1972 No 37; 1974 No 14; 1976 No 42; 1977 No 34; 1977 No 61; 1978 No 46; 1979 No 33; 1984 No 62; 1985 No 67; 1986 No 74; 1989 No 59; 1990 No 65; 1991 No 44; 1992 No 9; 1992 No 37; 1993 No 4; 1994 No 61; 1996 No 6; 1996 No 82; 1998 No 67 om 2001 No 44 amdt 1.2769 (prev sch 2) am 1938 No 25 (as am 1938 No 35) om 1977 No 4 ins 1977 No 4 am 1997 No 94 renum 2001 No 44 amdt 1.2770 am A2005-20 amdt 3.307

Oath

sch 2	renum as sch 1
sch 3	am 1938 No 25 (as am 1938 No 35); 1976 No 42; 1985 No 67; 1991 No 44 om 2001 No 44 amdt 1.2771

Fees

sch 4	am 1937 No 5; 1937 No 28 om 1953 No 14
sch 5	om 1953 No 14

Witnesses' expenses

sch 6	om 1953 No 14

Dictionary

dict	ins A2004-60 amdt 1.413 def ***administering authority*** ins A2004-60 amdt 1.413 def ***administrator*** ins A2004-60 amdt 1.413 def ***another jurisdiction*** ins A2004-60 amdt 1.413 def ***appeal*** ins A2004-60 amdt 1.413 def ***appearance*** ins A2004-60 amdt 1.413 def ***applicant*** ins A2004-60 amdt 1.413 def ***application*** ins A2004-60 amdt 1.413 def ***authorised person*** ins A2004-60 amdt 1.413

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def ***bailiff*** ins A2004-60 amdt 1.413
def ***certified copies*** ins A2004-60 amdt 1.413
def ***claim*** ins A2004-60 amdt 1.413
def ***common boundaries determination*** ins A2004-60 amdt 1.413
def ***contract application*** ins A2004-60 amdt 1.413
def ***conviction*** ins A2004-60 amdt 1.413
def ***court*** ins A2004-60 amdt 1.413
def ***Crimes Act*** ins A2004-60 amdt 1.413
def ***damages application*** ins A2004-60 amdt 1.413
def ***date of service*** ins A2004-60 amdt 1.413
def ***debt application*** ins A2004-60 amdt 1.413
def ***debt declaration*** ins A2004-60 amdt 1.413
def ***decision*** ins A2004-60 amdt 1.413
def ***default notice*** ins A2004-60 amdt 1.413
def ***defendant*** ins A2004-60 amdt 1.413
def ***driver*** ins A2004-60 amdt 1.413
def ***escort*** ins A2004-60 amdt 1.413
def ***fine*** ins A2004-60 amdt 1.413
def ***fine defaulter*** ins A2004-60 amdt 1.413
def ***goods application*** ins A2004-60 amdt 1.413
def ***government agency*** ins A2004-60 amdt 1.413
def ***hearing*** ins A2004-60 amdt 1.413
def ***home address*** ins A2004-60 amdt 1.413
def ***illegal user declaration*** ins A2004-60 amdt 1.413
def ***indictable offence*** ins A2004-60 amdt 1.413
def ***indictment*** ins A2004-60 amdt 1.413
def ***information*** ins A2004-60 amdt 1.413
def ***infringement notice*** ins A2004-60 amdt 1.413
def ***infringement notice offence*** ins A2004-60 amdt 1.413
def ***infringement notice penalty*** ins A2004-60 amdt 1.413
def ***inquiry*** ins A2004-60 amdt 1.413
def ***judgment*** ins A2004-60 amdt 1.413
def ***jury*** ins A2004-60 amdt 1.413
def ***known offender declaration*** ins A2004-60 amdt 1.413
def ***law in force in the ACT*** ins A2004-60 amdt 1.413
def ***magistrate*** ins A2004-60 amdt 1.413
am A2005-20 amdt 3.308
def ***notice of intention to defend form*** ins A2005-20 amdt 3.309
def ***notice to defendant form*** ins A2005-20 amdt 3.309
def ***nuisance application*** ins A2004-60 amdt 1.413
def ***outstanding fine*** ins A2004-60 amdt 1.413
def ***penalty notice*** ins A2004-60 amdt 1.413
def ***plea of guilty form*** ins A2005-20 amdt 3.309
def ***prescribed offence*** ins A2004-60 amdt 1.413
def ***proceeding*** ins A2004-60 amdt 1.413

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def ***reciprocating court*** ins A2004-60 amdt 1.413
def ***referee*** ins A2004-60 amdt 1.413
def ***reference appeal*** ins A2005-5 s 34
def ***registered*** ins A2004-60 amdt 1.413
def ***registered operator*** ins A2004-60 amdt 1.413
om A2005-20 amdt 3.310
def ***registrar*** ins A2004-60 amdt 1.413
def ***relevant officer*** ins A2004-60 amdt 1.413
def ***reminder notice*** ins A2004-60 amdt 1.413
def ***respondent*** ins A2004-60 amdt 1.413
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def ***Small Claims Court*** ins A2004-60 amdt 1.413
def ***sold vehicle declaration*** ins A2004-60 amdt 1.413
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def ***summary conviction*** ins A2004-60 amdt 1.413
def ***superintendent*** ins A2004-60 amdt 1.413
def ***Territory entity*** ins A2004-60 amdt 1.413
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def ***vehicle-related offence*** ins A2005-20 amdt 3.311

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1992 No 37	3 August 1992
2	Act 1993 No 91	31 December 1993
3	Act 1994 No 81	10 April 1995
4	Act 1997 No 25	30 May 1997

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Republication No	Amendments to	Republication date
5	Act 1997 No 96	1 June 1998
6	Act 1999 No 12	31 March 1999
7	Act 2000 No 60	20 November 2000
8	Act 2001 No 90	12 September 2001
9	Act 2001 No 90	3 December 2001
10	Act 2002 No 2	14 March 2002
11*	Act 2002 No 2	27 March 2002
12	Act 2002 No 2	1 July 2002
13	Act 2002 No 2	13 September 2002
14	Act 2002 No 30	17 September 2002
15	Act 2002 No 36	11 October 2002
16	Act 2002 No 36	1 January 2003
16 (RI)	Act 2002 No 49 ‡	12 February 2003
17	A2003-2	31 March 2003
18	A2003-2	12 October 2003
19	A2003-56	19 December 2003
20	A2004-2	22 March 2004
21	A2004-15	9 April 2004
22	A2004-15	30 April 2004
23	A2004-15	26 June 2004
24	A2004-47	25 August 2004
25	A2004-47	30 September 2004
26 (RI)	A2004-60 †	8 June 2005
27 (RI)	A2005-7 †	8 June 2005

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5 Earlier republications

Republication No	Amendments to	Republication date
28 (RI)	A2005-13 †	8 June 2005
29 (RI)	A2005-20 †	8 June 2005
30	A2005-53	23 November 2005

‡ includes retrospective amendments by A2002-49

† includes textual correction in s 312

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